

CRIMINAL RULES FOR COURTS OF LIMITED
JURISDICTION (CrRLJ)

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RULE 1.1 SCOPE

These rules govern the procedure in the courts of limited jurisdiction of the State of Washington in all criminal proceedings and supersede all procedural statutes and rules that may be in conflict. They shall be interpreted and supplemented in light of the common law and the decisional law of this state. These rules shall not be construed to affect or derogate from the constitutional rights of any defendant.

RULE 1.2 PURPOSE AND CONSTRUCTION

These rules are intended to provide for the just determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration, effective justice, and the elimination of unjustifiable expense and delay.

RULE 1.3 EFFECT

Except as otherwise provided elsewhere in these rules, on their effective date:

(a) Any acts done before the effective date in any proceedings then pending or any action taken in any proceeding pending under rules of procedure in effect prior to the effective date of these rules are not impaired by these rules.

(b) These rules also apply to any proceedings in court then pending or thereafter commenced regardless of when the proceedings were commenced, except to the extent that in the opinion of the court, the former procedure should continue to be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedures of these rules.

RULE 1.4
DEFINITIONS

As used in these rules, unless the context clearly requires otherwise:

- (a) "Court" means any court of limited jurisdiction.
- (b) "Judge" means any judge of any court of limited jurisdiction and shall include every judicial officer authorized, alone or with others, to hold or preside over a court.
- (c) "Prosecuting authority" includes prosecuting attorneys, city attorneys, corporation counsel, and their deputies and assistants, or such other persons as may be designated by statute.
- (d) "Court day" means any day on which a court is open for the transaction of administrative business, including but not limited to the acceptance of papers for filing.

RULE 1.5
STYLE AND FORM

The format requirements for papers being filed with a court are as specified in GR 14, except exhibits, the citation and notice, and forms approved by the Office of the Administrator for the Courts, need not be on letter-size paper (8-1/2 by 11 inches). The citation and notice shall be on a form prescribed or approved by the Office of the Administrator for the Courts.

RULE 1.6
CONDUCT OF COURT

All judicial proceedings and trials shall be conducted in accordance with these rules. If no procedure is specifically prescribed by rule, the court may proceed in any lawful manner not inconsistent with these rules, or with any applicable statute. Questions pertaining to the conduct of the court and not covered by these rules or appropriate statutes shall be determined by the trial judge.

RULE 1.7
LOCAL COURT RULES AVAILABILITY

Courts of limited jurisdiction may adopt in accordance with GR 7 such special rules not inconsistent with these general rules as they may deem necessary for their respective courts. The court, upon the adoption of such rules, shall keep a copy of them readily available for inspection.

RULE 1.8
TITLE OF RULES

These rules may be known and cited as Criminal Rules for Courts of Limited Jurisdiction, and shall be referred to as CrRLJ.

RULE CrRLJ 2.1
COMPLAINT--CITATION AND NOTICE

- (a) Complaint.

(1) Initiation. Except as otherwise provided in this rule, all criminal proceedings shall be initiated by a complaint.

(2) Nature. The complaint shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting authority. Allegations made in one count may be incorporated by reference in another count. It may be alleged that the means by

which the defendant committed the offense are unknown or that he or she committed it by one or more specified means. The complaint shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation or its omission shall not be ground for dismissal of the complaint or for reversal of a conviction if the error or omission did not mislead the defendant to his or her prejudice.

(3) Contents. The complaint shall contain or have attached to it the following information when filed with the court:

(i) the name, address, date of birth, and sex of the defendant;

(ii) all known personal identification numbers for the defendant, including the Washington driver's operating license (DOL) number, the state criminal identification (SID) number, the state criminal process control number (PCN), the JUVIS control number, and the Washington Department of Corrections (DOC) number.

(b) Citation and Notice To Appear.

(1) Issuance. Whenever a person is arrested or could have been arrested pursuant to statute for a violation of law which is punishable as a misdemeanor or gross misdemeanor the arresting officer, or any other authorized peace officer, may serve upon the person a citation and notice to appear in court. Criminal citations shall be on a form entitled "Criminal Citation" prescribed by the Administrative Office of the Courts. Citation forms prescribed by the Administrative Office of the Courts are presumed valid.

(2) Release Factors. In determining whether to release the person or to hold him or her in custody, the peace officer shall consider the following factors:

(i) whether the person has identified himself or herself satisfactorily;

(ii) whether detention appears reasonably necessary to prevent imminent bodily harm to himself, herself, or another, or injury to property, or breach of the peace;

(iii) whether the person has ties to the community reasonably sufficient to assure his or her appearance or whether there is substantial likelihood that he or she will refuse to respond to the citation and notice; and

(iv) whether the person previously has failed to appear in response to a citation and notice issued pursuant to this rule or to other lawful process.

(3) Contents. The citation and notice to appear shall include or have attached to it:

(i) the name of the court and a space for the court's docket, case or file number;

(ii) the name, address, date of birth, and sex of the defendant; and all known personal identification numbers for the defendant, including the Washington driver's operating license (DOL) number, the state criminal identification (SID) number, the state criminal process control number (PCN), the JUVIS control number, and the Washington Department of Corrections (DOC) number;

(iii) the date, time, place, numerical code section, description of the offense charged, the date on which the citation was issued, and the name of the citing officer;

(iv) the time and place the person is to appear in court, which may not exceed 20 days after the date of the citation and notice, but which need not be a time certain.

(4) Certificate. The citation and notice shall contain a form of certificate by the citing official that he or she certifies, under penalties of perjury, as provided by RCW 9A.72.085, and any law amendatory thereto, that he or she has probable cause to believe the person committed the offense charged contrary to law. The certificate need not be made before a magistrate or any other person.

(5) Initiation. When signed by the citing officer and filed with a court of competent jurisdiction, the citation and notice shall be deemed a lawful complaint for the purpose of initiating prosecution of the offense charged therein.

(c) Citizen Complaints. Any person wishing to institute a criminal action alleging a misdemeanor or gross misdemeanor shall appear before a judge empowered to commit persons charged with offenses against the State, other than a judge pro tem. The judge may require the appearance to be made on the record, and under oath. The judge may consider any allegations on the basis of an affidavit sworn to before the judge. The court may also grant an opportunity at said hearing for evidence to be given by the county prosecuting attorney or deputy, the potential defendant or attorney of record, law enforcement or other potential witnesses. The court may also require the presence of other potential witnesses.

In addition to probable cause, the court may consider:

(1) Whether an unsuccessful prosecution will subject the State to costs or damage claims under RCW 9A.16.110, or other civil proceedings;

(2) Whether the complainant has adequate recourse under laws governing small claims suits, anti-harassment petitions or other civil actions;

(3) Whether a criminal investigation is pending;

(4) Whether other criminal charges could be disrupted by allowing the citizen complaint to be filed;

(5) The availability of witnesses at trial;

(6) The criminal record of the complainant, potential defendant and potential witnesses, and whether any have been convicted of crimes of dishonesty as defined by ER 609; and

(7) Prosecution standards under RCW 9.94A.440.

If the judge is satisfied that probable cause exists, and factors (1) through (7) justify filing charges, and that the complaining witness is aware of the gravity of initiating a criminal complaint, of the necessity of a court appearance or appearances for himself or herself and witnesses, of the possible liability for false arrest and of the consequences of perjury, the judge may authorize the citizen to sign and file a complaint in the form prescribed in CrRLJ 2.1(a). The affidavit may be in substantially the following form:

THE STATE OF WASHINGTON)
) ss. No. _____
COUNTY OF _____)

AFFIDAVIT OF COMPLAINING WITNESS

DEFENDANT:

Name _____	Name _____
Address _____	Address _____
Phone _____ Bus. _____	Phone _____ Bus. _____

WITNESSES:

Name _____	Name _____
Address _____	Address _____
Phone _____ Bus. _____	Phone _____ Bus. _____

Name _____	Name _____
Address _____	Address _____
Phone _____ Bus. _____	Phone _____ Bus. _____

I, the undersigned complainant, understand that I have the choice of complaining to a prosecuting authority rather than signing this affidavit. I elect to use this method to start criminal proceedings. I understand that the following are some but not all of the consequences of my signing a criminal complaint: (1) the defendant may be arrested and placed in custody; (2) the arrest if proved false may result in a lawsuit against me; (3) if I have sworn falsely I may be prosecuted for perjury; (4) this charge will be prosecuted even though I might later change my mind; (5) witnesses and complainant will be required to appear in court on the trial date regardless of inconvenience, school, job, etc.

Following is a true statement of the events that led to filing this charge.
I (have) (have not) consulted with a prosecuting authority concerning this incident.

On the ____ day of _____, 19__, at _____.
(location)

Signed _____

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 19__.

Judge

(d) Filing.

(1) Original. The original of the complaint or citation and notice shall be filed with the clerk of the court.

(2) Time. The citation and notice shall be filed with the clerk of the court within two days after issuance, not including Saturdays, Sundays or holidays. A citation and notice not filed within the time limits of this rule may be dismissed without prejudice.

[Amended effective March 18, 1994; July 2, 1996; September 1, 1999;
November 21, 2006; May 6, 2008.]

RULE CrRLJ 2.2
WARRANT OF ARREST OR SUMMONS
UPON COMPLAINT

(a) Issuance of Warrant of Arrest.

(1) Generally. If a complaint is filed and if the offense charged may be tried in the jurisdiction in which the warrant issues, and if the sentence for the offense charged may include confinement in jail, the court may direct the clerk to issue a warrant for the arrest of the defendant unless the defendant has already been arrested in connection with the offense charged and is in custody or has been released on obligation to appear in court.

(2) Probable Cause. A warrant of arrest must be supported by an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. Sworn testimony shall be recorded electronically or stenographically. The evidence shall be preserved. The court must determine there is probable cause to believe that the defendant has committed the crime alleged before issuing the warrant. The evidence shall be subject to constitutional limitations for probable cause determinations and may be hearsay in whole or in part.

(3) Ascertaining Defendant's Current Address.

(i) Search for Address. The court shall not issue a warrant unless it determines that the complainant has attempted to ascertain the defendant's current address by searching the following: (A) the District Court Information system database (DISCIS), (B) the driver's license and identicard database maintained by the Department of Licenses; and (C) the database maintained by the Department of Corrections listing persons incarcerated and under supervision. The court in its discretion may require that other databases be searched.

(ii) Exemptions from Address Search. The search required by subdivision (i) shall not be required if (A) the defendant has already appeared in court (in person or through counsel) after filing of the same case, (B) the defendant is known to be in custody, or (C) the defendant's name is unknown.

(iii) Effect of Erroneous Issuance. If a warrant is erroneously issued in violation of this subsection (a)(3), that error shall not affect the validity of the warrant.

(b) Issuance of Summons in Lieu of Warrant.

(1) Generally. If a complaint is filed, the court may direct the clerk to issue a summons commanding the defendant to appear before the court at a specified time and place.

(2) When Summons Must Issue. The court shall direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant (i) will not appear in response to a summons, (ii) will commit a violent offense, (iii) will interfere with witnesses or the administration of justice, or (iv) is in custody..

(3) Summons for Felony Complaint. If the complaint charges the commission of a felony, the court may direct the clerk to issue a summons instead of a warrant unless it finds reasonable cause to believe that the defendant will not appear in response to a summons, or that arrest is necessary to prevent bodily harm to the accused or another, in which case it may issue a warrant.

(4) Summons. A summons shall be in writing and in the name of the charging jurisdiction, shall be signed by the clerk with the title of that office, and shall state the date when issued. It shall state the name of the defendant and the nature of the charge, and shall summon the defendant to appear before the court at a stated time and place. The summons shall inform the defendant that failure to appear as commanded may result in the issuance of a warrant for the arrest of the accused.

(5) Failure To Appear on Summons. If a person fails to appear in response to a summons, or if delivery is not effected within a reasonable time, a warrant of arrest may issue, if the sentence for the offense charged may include confinement in jail.

(c) Requisites of a Warrant. The warrant shall be in writing and in the name of the charging jurisdiction, shall be signed by the judge or clerk with the title of that office, and shall state the date when issued. It shall specify the name of the defendant, or if his or her name is unknown, any name or description by

which he or she can be identified with reasonable certainty. The warrant shall specify the offense charged against the defendant and that the court has found that probable cause exists to believe the defendant has committed the offense charged and shall command the defendant be arrested and brought forthwith before the court issuing the warrant. If the offense is not a capital offense, the court shall set forth in the order for the warrant, bail and/or other conditions of release.

(d) Execution; Service.

(1) Execution of Warrant. The warrant shall be directed to all peace officers in the state and shall be executed only by a peace officer.

(2) Delivery of Summons. The summons may be served any place within the state. It may be served by a peace officer, who shall deliver a copy of the same to the defendant personally, or it may be delivered by the court mailing the same, postage prepaid, to the defendant at his or her last known address.

(e) Return. The officer executing a warrant shall make return thereof to the court before whom the defendant is brought pursuant to these rules. At the request of the prosecuting authority any unexecuted warrant shall be returned to the issuing court to be canceled. The peace officer to whom a summons has been given for service shall, on or before the return date, file a return thereof with the court before whom the summons is returnable. For reasonable cause, the court may order that the warrant be returned to it.

(f) Defective Warrant or Summons.

(1) Amendment. No person arrested under a warrant or appearing in response to a summons shall be discharged from custody or dismissed because of any irregularity in the warrant or summons, but the warrant or summons may be amended so as to remedy any irregularity.

(2) Issuance of New Warrant or Summons. If during the preliminary examination of any person arrested under a warrant or appearing in response to a summons, it appears that the warrant or summons does not properly name or describe the defendant or the offense with which he or she is charged, or that although not guilty of the offense specified in the warrant or summons, there is reasonable ground to believe that he or she will be charged with some other offense, the judge shall not discharge or dismiss the defendant but may allow a new complaint to be filed and shall thereupon issue a new warrant or summons.

(g) Failure to Issue Warrant---Dismissal. Upon five days' notice to the prosecuting attorney, the court shall dismiss a charge without prejudice if (i) 90 days have elapsed since the citation or complaint was filed and (ii) on the date that the order of dismissal is entered, no warrant has been issued and the defendant has not appeared in court.

[Amended effective September 1, 1991; September 1, 1995; September 1, 2003; September 1, 2006.]

RULE 2.3
SEARCH AND SEIZURE

(a) Authority To Issue Warrant. A search warrant authorized by this rule may be issued by the court upon request of a peace officer or the prosecuting authority.

(b) Property or Persons Which May Be Seized With a Warrant. A warrant may be issued under this rule to search for and seize any (1) evidence of a crime; or (2) contraband, the fruits of crime, or things otherwise criminally possessed; or (3) weapons or other things by means of which a crime has been committed or reasonably appears about to be committed; or (4) person for whose arrest there is probable cause, or who is unlawfully restrained.

(c) Issuance and Contents. A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. There must be an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony establishing the grounds for issuing the warrant. The sworn testimony may be an electronically recorded telephonic statement. The sworn testimony must be in writing, recorded electronically, or otherwise preserved. The record shall include any additional evidence relied upon by the court. The recording, or a duplication of the recording, shall be a part of the court record and shall be provided if requested by a party or if ordered by the court, subject to

the provisions of rule 8.10. The evidence in support of the finding of probable cause shall be preserved and shall be subject to constitutional limitations for such determinations and may be hearsay in whole or in part. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purposes to affix the court's signature to a warrant. The warrant may be directed to any peace officer. The warrant shall command the officer to search, within a specified period of time not to exceed 10 days, the person, place or thing named for the property or person specified. It shall designate the court to which it shall be returned. It shall be returned to the issuing court, and filed in the public files of the court unless ordered sealed by the court. Unless otherwise designated by the issuing court, the warrant may be served at any time of day or night.

(d) Execution and Return With Inventory. The peace officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the warrant and a receipt for the property taken. If no such person is present, the officer may post a copy of the search warrant and receipt. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person from whose possession or premises the property is taken, or in the presence of at least one person other than the officer. The court shall upon request deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(e) Motion for Return of Property. A person may move the issuing court for the return of the property seized under the warrant on the ground that the property was illegally seized, or does not appear relevant or reasonably calculated to lead to the discovery of relevant evidence, and that the person is lawfully entitled to possession of the property. The motion shall be filed in the court which issued the warrant and a copy served upon the chief executive of the law enforcement agency that obtained the warrant. Proof of service shall be filed with the court. The prosecuting authority's assertion that property lawfully seized is relevant or reasonably calculated to lead to the discovery of relevant evidence shall be binding on the court.

(1) Procedure if Charges Pending. If a motion based on the ground that property was illegally seized is made or comes on for hearing after a complaint or citation and notice is filed in the court in which the motion is pending, it shall be treated as a motion to suppress. If charges are pending in another court at the time a motion made upon any ground is filed or comes on for hearing, the motion shall be transferred to the other court and subject to its rules of procedure.

(2) Procedure if No Charges Pending. If no charges are pending in any court at the time the motion is made, the issuing court shall set the motion for hearing not less than 30 days from the date of the filing or service of the motion, whichever is later.

(3) Procedure if Motion Granted. If the motion is granted, the property shall be returned unless the prosecuting authority seeks review within 14 days.

(f) Searches of Media.

(1) Scope. If an application for a search warrant is governed by RCW 10.79.015(3) or 42 U.S.C. subsection 2000aa et seq., this section controls the procedure for obtaining the evidence.

(2) Subpoena Duces Tecum. Except as provided in subsection (3), if the court determines that the application satisfies the requirements for issuance of a warrant, as provided in section (c) of this rule, the court shall issue a subpoena duces tecum in accordance with CRLJ 45(b).

(3) Warrant. If the court determines that the application satisfies the requirements for issuance of a warrant and that RCW 10.79.015(3) and 42 U.S.C. subsection 2000aa et seq. permit issuance of a search warrant rather than a subpoena duces tecum, the court may issue a warrant.

(g) Motion for Suppression. Absent prejudice to the defendant, procedural noncompliance with rules of execution and return does not compel invalidation of a warrant or suppression of its fruits.

RULE 2.4
COMPLAINT--CITATION AND NOTICE--
SUFFICIENCIES

(a) Complaint. The complaint shall not be deemed insufficient for lack of formal caption or commencement or a formal conclusion, or any other matter not necessary to a plain, concise and definite statement of the essential facts constituting the specific offense or offenses with which the defendant is charged, nor for lack of any other matter not necessary to such statement, nor need it negative any exception, excuse or proviso contained in any statute creating or defining the offense charged.

(b) (Reserved.)

(c) Copy of Complaint or Citation and Notice. When a complaint or a citation and notice has been lost or destroyed, a copy or substitute thereof, certified by the court, may replace the original, and the case

shall proceed without delay from that cause.

(d) Surplusage. The court on motion of a party may strike surplusage from the complaint or the citation and notice.

(e) Bill of Particulars. The court may direct the filing of a bill of particulars. A motion for a bill of particulars may be made before arraignment or within 10 days after arraignment or an appearance by a defendant's lawyer pursuant to rule 4.1(d), or at such later time as the court may permit.

(f) Amendment. The court may permit a complaint, a citation and notice, or a bill of particulars to be amended at any time before verdict or finding if substantial rights of the defendant are not prejudiced.

CrRLJ 2.5

PROCEDURE ON FAILURE TO OBEY CITATION AND NOTICE

The court may order the issuance of a bench warrant for the arrest of any defendant who has failed to appear before the court, either in person or by a lawyer, in answer to a citation and notice, or an order of the court, upon which the defendant has promised in writing to appear, or of which the defendant has been served with otherwise received notice to appear, if the sentence for the offense charged may include confinement in jail.

[Amended effective September 1, 1991; November 21, 2006.]

RULE 3.1

RIGHT TO AND ASSIGNMENT OF LAWYER

(a) Types of Proceedings. The right to a lawyer shall extend to all criminal proceedings for offenses punishable by loss of liberty regardless of their denomination as felonies, misdemeanors, or otherwise.

(b) Stage of Proceedings.

(1) The right to a lawyer shall accrue as soon as feasible after the defendant has been arrested, appears before a committing magistrate, or is formally charged, whichever occurs earliest.

(2) A lawyer shall be provided at every critical stage of the proceedings.

(c) Explaining the Availability of a Lawyer.

(1) When a person has been arrested he or she shall as soon as practicable be advised of the right to a lawyer. Such advice shall be made in words easily understood, and it shall be stated expressly that a person who is unable to pay a lawyer is entitled to have one provided without charge.

(2) At the earliest opportunity a person in custody who desires a lawyer shall be provided access to a telephone, the telephone number of the public defender or official responsible for assigning a lawyer, and any other means necessary to place him or her in communication with a lawyer.

(d) Assignment of Lawyer.

(1) Unless waived, a lawyer shall be provided to any person who is financially unable to obtain one without causing substantial hardship to the person or to the person's family. A lawyer shall not be denied to any person merely because his or her friends or relatives have resources adequate to retain a lawyer or because he or she has posted or is capable of posting bond.

(2) The ability to pay part of the cost of a lawyer shall not preclude assignment. The assignment of a lawyer may be conditioned upon part payment pursuant to an established method of collection.

(3) Information given by a person to assist in the determination of whether he or she is financially able to obtain a lawyer shall be under oath and shall not be available for use to the prosecution in the pending case in chief.

(e) Withdrawal of Lawyer. Whenever a case has been set for trial, no lawyer shall be allowed to withdraw except upon consent of the court for good cause shown and upon substitution of another lawyer or upon the defendant's knowing and voluntary decision to proceed without a lawyer.

(f) Services Other Than Lawyer.

(1) A lawyer for a defendant who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense in the case may request them by a motion to the court.

(2) Upon finding that the services are necessary and that the defendant is financially unable to obtain them, the court, or a person or agency to whom the administration of the program may have been delegated by local court rule, shall authorize the services. The motion may be made ex parte, and, upon a showing of good cause, the moving papers may be ordered sealed by the court, and shall remain sealed until further order of the court. The court, in the interest of justice and on a finding that timely procurement

of necessary services could not await prior authorization, shall ratify such services after they have been obtained.

(3) Reasonable compensation for the services shall be determined and payment directed to the organization or person who rendered them upon the filing of a claim for compensation supported by affidavit specifying the time expended and the services and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source.

3.2 RELEASE OF ACCUSED (IN WORD FORMAT)

The contents of this item are only available [on-line](#).

CrRLJ 3.2.1
PROCEDURE FOLLOWING
WARRANTLESS ARREST--PRELIMINARY HEARING

(a) Probable Cause Determination. A person who is arrested shall have judicial determination of probable cause no later than 48 hours following the persons arrest, unless probable cause has been determined prior to such arrest.

(b) How Determined. The court shall determine probable cause on evidence presented by a peace officer or prosecuting authority in the same manner as provided for a warrant of arrest in rule 2.2(a). The evidence shall be preserved and may consist of an electronically recorded telephonic statement. If the court finds that release without bail should be denied or that conditions should attach to the release on personal recognizance, other than the promise to appear for trial, the court shall proceed to determine whether probable cause exists to believe that the accused committed the offense charged, unless this determination has previously been made by a court. Before making the determination, the court may consider an affidavit, a document as provided in RCW 9A.72.085 or any law amendatory thereto, or sworn testimony, and further may examine under oath the affiant and any witnesses the affiant may produce. Sworn testimony shall be electronically or stenographically recorded. The evidence shall be preserved and shall be subject to constitutional limitations for probable cause determinations, and may be hearsay in whole or in part.

(c) Court Days. For the purpose of section (a), Saturday, Sunday and holidays may be considered judicial days.

(d) Preliminary Appearance.

(1) Adult. Unless an accused has appeared or will appear before the superior court for a preliminary appearance, any accused detained in jail must be brought before a court of limited jurisdiction as soon as practicable after the detention is commenced, but in any event before the close of business on the next court day.

(2) Juveniles. Unless an accused has appeared or will appear before the superior court for a preliminary appearance, any accused in whose case the juvenile court has entered a written order declining jurisdiction and who is detained in custody, must be brought before a court of limited jurisdiction as soon as practicable after the juvenile court order is entered, but in any event before the close of business on the next court day.

(3) Unavailability. If an accused is unavailable for preliminary appearance because of physical or mental disability, the court may, for good cause shown and recorded by the court, enlarge the time prior to preliminary appearance.

(e) Procedure at Preliminary Appearance.

(1) At the preliminary appearance, the court shall provide for a lawyer pursuant to rule 3.1 and for pretrial release pursuant to rule 3.2, and the court shall orally inform the accused:

(i) of the nature of the charge against the accused;

(ii) of the right to be assisted by a lawyer at every stage of the proceedings; and

(iii) of the right to remain silent, and that anything the accused says may be used against him or her.

(2) If the court finds that release should be denied or that

conditions should attach to release on personal recognizance, other than the promise to appear in court at subsequent hearings, the court shall proceed to determine whether probable cause exists to believe that the accused committed the offense charged, unless this determination has previously been made by a court. Before making the determination, the court may consider affidavits filed or sworn testimony and further may examine under oath the affiant and any witnesses he or she may produce. Subject to constitutional limitations, the finding of probable cause may be based on evidence which is hearsay in whole or in part.

(f) Time Limits.

(1) Unless a written complaint is filed or the accused consents in writing or on the record in open court, an accused, following a preliminary appearance, shall not be detained in jail or subjected to conditions of release for more than 72 hours after the accused's detention in jail or release on conditions, whichever occurs first. Computation of the 72-hour period shall not include any part of Saturdays, Sundays, or holidays.

(2) If no complaint, information or indictment has been filed at the time of the preliminary appearance, and the accused has not otherwise consented, the court shall either:

(i) order in writing that the accused be released from jail or exonerated from the conditions of release at a time certain which is within the period described in subsection (f)(1); or

(ii) set a time at which the accused shall reappear before the court. The time set for reappearance must also be within the period described in subsection (f)(1). If no complaint, information or indictment has been filed by the time set for release or reappearance, the accused shall be immediately released from jail or deemed exonerated from all conditions of release.

(g) Preliminary Hearing on Felony Complaint.

(1) When a felony complaint is filed, the court may conduct a preliminary hearing to determine whether there is probable cause to believe that the accused has committed a felony unless an information or indictment is filed in superior court prior to the time set for the preliminary hearing. If the court finds probable cause, the court shall bind the defendant over to the superior court. If the court binds the accused over, or if the parties waive the preliminary hearing, an information shall be filed without unnecessary delay. Jurisdiction vests in the superior court at the time the information is filed.

(2) If at the time a felony complaint is filed with the district court the accused is detained in jail or subjected to conditions of release, the time from the filing of the complaint in district court to the filing of an information in superior court shall not exceed 30 days plus any time which is the subject of a stipulation under subsection (g)(3). If at the time the complaint is filed with the district court the accused is not detained in jail or subjected to conditions of release, the time from the accused's first appearance in district court which next follows the filing of the complaint to the time of the filing of an information in superior court shall not exceed 30 days, excluding any time which is the subject of a stipulation under subsection (g)(3). If the applicable time period specified above elapses and no information has been filed in superior court, the case shall be dismissed without prejudice.

(3) Before or after the preliminary hearing or a waiver thereof, the court may delay a preliminary hearing or defer a bind-over date if the parties stipulate in writing that the case shall remain in the court of limited jurisdiction for a specified time, which may be in addition to the 30-day time limit established in subsection (g)(2).

(4) A preliminary hearing shall be conducted as follows:

(i) the defendant may as a matter of right be present at such hearing;

(ii) the court shall inform the defendant of the charge unless the defendant waives such reading;

(iii) witnesses shall be examined under oath and may be cross-examined;

(iv) the defendant may testify and call witnesses in the defendant's behalf.

(5) If a preliminary hearing on the felony complaint is held and the court finds that probable cause does not exist, the charge shall be dismissed, and may be refiled only if a motion to set aside the finding is granted by the superior court. The superior

court shall determine whether, at the time of the hearing on such motion, there is probable cause to believe that the defendant has committed a felony.

(6) If a preliminary hearing is held, the court shall file the record in superior court promptly after notice that the information has been filed. The record shall include, but not be limited to, all written pleadings, docket entries, the bond, and any exhibits filed in the court of limited jurisdiction. Upon written request of any party, the court shall file the recording of any testimony.

[Amended effective September 1, 2002.]

RULE CrRLJ 3.3
TIME FOR TRIAL

(a) General Provisions.

(1) Responsibility of Court. It shall be the responsibility of the court to ensure a trial in accordance with this rule to each person charged with a crime.

(2) Precedence Over Civil Cases. Criminal trials shall take precedence over civil trials.

(3) Definitions. For purposes of this rule:

(i) "Pending charge" means the charge for which the allowable time for trial is being computed.

(ii) "Related charge" means a charge based on the same conduct as the pending charge that is ultimately filed in the trial court.

(iii) "Appearance" means the defendant's physical presence in the trial court. Such presence constitutes appearance only if (A) the prosecutor was notified of the presence and (B) the presence is contemporaneously placed on the record under the cause number of the pending charge.

(iv) "Arraignment" means the date determined under CrRLJ 4.1(b).

(v) "Detained in jail" means held in the custody of a correctional facility pursuant to the pending charge. Such detention excludes any period in which a defendant is on electric home monitoring, is being held in custody on an unrelated charge or hold, or is serving a sentence of confinement.

(vi) "Trial court" means the court where the pending charge was filed.

(4) Construction. The allowable time for trial shall be computed in accordance with this rule. If a trial is timely under the language of this rule but was delayed by circumstances not addressed in this rule or CrRLJ 4.1, the pending charge shall not be dismissed unless the defendant's constitutional right to a speedy trial was violated.

(5) Related Charges. The computation of the allowable time for trial of a pending charge shall apply equally to related charges.

(6) Reporting of Untimely Trials. The court shall report to the Administrative Office of the Courts, on a form determined by that office, any case in which

(i) the court dismissed a charge on a determination pursuant to section (h) that the charge had not been brought to trial within the time allowed by this rule, or

(ii) the time limits would have been violated absent the cure period authorized by section (g).

(b) Time for Trial.

(1) Defendant Detained in Jail. A defendant who is detained in jail shall be brought to trial within the longer of

(i) 60 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(2) Defendant Not Detained in Jail. A defendant who is not detained in jail shall be brought to trial within the longer of

(i) 90 days after the commencement date specified in this rule, or

(ii) the time specified in subsection (b)(5).

(3) Release of Defendant. If a defendant is released from jail before the 60-day time limit has expired, the limit shall be extended to 90 days.

(4) Return to Custody following Release. If a defendant not detained in jail at the time the trial date was set is subsequently returned to custody on the same or related charge, the 90-day limit shall continue to apply. If the defendant is detained in jail when trial is reset following a new commencement date, the 60-day limit shall apply.

(5) Allowable Time after Excluded Period. If any period of time is excluded pursuant to section (e), the allowable time for trial shall not expire earlier than 30 days after the end of that excluded period.

(c) Commencement date.

(1) Initial Commencement Date. The initial commencement date shall be the date of arraignment as determined under CrRLJ 4.1.

(2) Resetting of commencement date. On occurrence of one of the following events, a new commencement date shall be established, and the elapsed time shall be reset to zero. If more than one of these events occurs, the commencement date shall be the latest of the dates specified in this subsection.

(i) Waiver. The filing of a written waiver of the defendant's rights under this rule signed by the defendant. The new commencement date shall be the date specified in the waiver, which shall not be earlier than the date on which the waiver was filed. If no date is specified, the commencement date shall be the date of the trial contemporaneously or subsequently set by the court.

(ii) Failure to Appear. The failure of the defendant to appear for any proceeding at which the defendant's presence was required. The new commencement date shall be the date of the defendant's next appearance.

(iii) New Trial. The entry of an order granting a mistrial or a new trial or allowing the defendant to withdraw a plea of guilty. The new commencement date shall be the date the order is entered.

(iv) Appellate Review or Stay. The acceptance of review or grant of a stay by an appellate court, or the issuance of a writ of certiorari, mandamus, or prohibition. The new commencement date shall be the date of the defendant's appearance that next follows the receipt by the clerk of the trial court of the mandate or written order terminating review or stay.

(v) Collateral Proceeding. The entry of an order granting a new trial pursuant to a personal restraint proceeding, a habeas corpus proceeding, or a motion to vacate judgment. The new commencement date shall be the date of the defendant's appearance that next follows either the expiration of the time to appeal such order or the receipt by the clerk of the trial court of notice of action terminating the collateral proceeding, whichever comes later.

(vi) Change of venue. The entry of an order granting a change of venue. The new commencement date shall be the date of the order.

(vii) Disqualification of Counsel. The disqualification of the defense attorney or prosecuting attorney. The new commencement date shall be the date of the disqualification.

(viii) Deferred Prosecution. The filing of a motion for deferred prosecution. The new commencement date shall be the date that an order is entered denying the motion or revoking the deferred prosecution.

(d) Trial Settings and Notice---Objections---Loss of Right to Object.

(1) Initial Setting of Trial Date. The court shall, within 15 days of the defendant's actual arraignment in the trial court or at the pretrial hearing, set a date for trial which is within the time limits prescribed by this rule and notify counsel for each party of the date set. If a defendant is not represented by

counsel, the notice shall be given to the defendant and may be mailed to the defendant's last known address. The notice shall set forth the proper date of the defendant's arraignment and the date set for trial.

(2) Resetting of Trial Date. When the court determines that the trial date should be reset for any reason, including but not limited to the applicability of a new commencement date pursuant to subsection (c)(2) or a period of exclusion pursuant to section (e), the court shall set a new date for trial which is within the time limits prescribed and notify each party of the date set.

(3) Objection to Trial Setting. A party who objects to the date set on the ground that it is not within the time limits prescribed by this rule must, within 10 days after the notice is mailed or otherwise given, move that the court set a trial date within those time limits. Such motion shall be promptly noted for hearing by the moving party in accordance with local procedures. A party who fails, for any reason, to make such a motion shall lose the right to object that a trial commenced on such a date, is not within the time limits prescribed by this rule.

(4) Loss of Right to Object. If a trial date is set outside the time allowed by this rule, but the defendant lost the right to object to that date pursuant to subsection (d)(3), that date shall be treated as the last allowable date for trial, subject to section (g). A later trial date shall be timely only if the commencement date is reset pursuant to subsection (c)(2) or there is a subsequent excluded period pursuant to section (e) and subsection (b)(5).

(e) Excluded Periods. The following periods shall be excluded in computing the time for trial:

(1) Competency Proceedings. All proceedings relating to the competency of a defendant to stand trial on the pending charge, beginning on the date when the competency examination is ordered and terminating when the court enters a written order finding the defendant to be competent.

(2) Proceedings on Unrelated Charges. Arraignment, pre-trial proceedings, trial and sentencing on an unrelated charge.

(3) Continuances. Delay granted by the court pursuant to section (f).

(4) Period between Dismissal and Filing. The time between the dismissal of a charge and the refiling of the same or related charge.

(5) Disposition of Related Charge. The period between the commencement of trial or the entry of a plea of guilty on one charge and the defendant's arraignment in the trial court on a related charge.

(6) Defendant Subject to Foreign or Federal Custody or Conditions. The time during which a defendant is detained in jail or prison outside the county in which the defendant is charged or in a federal jail or prison and the time during which a defendant is subjected to conditions of release not imposed by a court of the State of Washington.

(7) Juvenile Proceedings. All proceedings in juvenile court.

(8) Unavoidable or unforeseen Circumstances. Unavoidable or unforeseen circumstances affecting the time for trial beyond the control of the court or of the parties. This exclusion also applies to the cure period of section (g).

(9) Disqualification of Judge. A five-day period of time commencing with the disqualification of the judge to whom the case is assigned for trial.

(f) Continuances. Continuances or other delays may be granted as follows:

(1) Written Agreement. Upon written agreement of the parties which must be signed by the defendant or all defendants, the court may continue the trial to a specified date.

(2) Motion by the Court or a Party. On motion of the court or a party, the court may continue the trial date to a specified date when such continuance is required in the administration of justice and the defendant will not be prejudiced in the presentation of his or her defense. The motion must be filed before time for trial has expired. The court must state on the record or in writing the reasons for the continuance. The bringing of such motion by or on behalf of any party waives that party's objection to the requested delay.

(g) Cure Period. The court may continue the case beyond the limits specified in section (b) on motion of the court or a party made within five days after the time for trial has expired. Such a continuance may be granted only once in the case upon a finding on the record or in writing that the defendant will not be substantially prejudiced in the presentation of his or her defense. The period of delay shall be for no more than 14 days for a defendant detained in jail, or 28 days for a defendant not detained in jail, from the date that the continuance is granted. The court may direct the parties to remain in attendance or be on-call for trial assignment during the cure period.

(h) Dismissal With Prejudice. A charge not brought to trial within the time limit determined under this rule shall be dismissed with prejudice. The State shall provide notice of dismissal to the victim and at the court's discretion shall allow the victim to address the court regarding the impact of the crime. No case shall be dismissed for time-to-trial reasons except as expressly required by this rule, a statute, or federal constitution.

[Amended effective November 29, 1991; July 1, 1992; September 1, 1995; September 1, 2003; November 25, 2003.]

CrRLJ
RULE 3.4

PRESENCE OF THE DEFENDANT

(a) When Necessary. The defendant shall be present at the arraignment, at every stage of the trial including the empaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(b) Effect of Voluntary Absence. The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(c) Defendant Not Present. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(d) Video Conference Proceedings.

(1) Authorization. Preliminary appearances held pursuant to CrRLJ 3.2.1(d), arraignments held pursuant to this rule and CrRLJ 4.1, bail hearings held pursuant to CrRLJ 3.2, and trial settings held pursuant to CrRLJ 3.3(f), may be conducted by video conference in which all participants can simultaneously see, hear, and speak with each other. Such proceedings shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the trial court judge. Any party may request an inperson hearing, which may in the trial court judge's discretion be granted.

(2) Agreement. Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as provided for by CrRLJ 4.2 may be conducted by video conference only by agreement of the parties, either in writing or on the record, and upon the approval of the trial court judge pursuant to local court rule.

(3) Standards for Video Conference Proceedings. The judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the judge. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

Supersedes RCW 10.01.080; RCW 10.46.120, .130; RCW 10.64.020, .030.

Amended 12/02/99

CONFESSION PROCEDURE

(a) Requirement for Hearing. When an accused's statement which is subject to constitutional protection is to be offered in evidence the court shall hold, upon demand, a hearing for the purpose of determining whether the statement is admissible.

(b) Defendant's Rights at Hearing. At the hearing, the court shall ascertain whether the defendant has been informed that:

(1) He or she may, but need not, testify at the hearing on the circumstances surrounding the statement;

(2) If the defendant does testify at the hearing, he or she will be subject to cross examination with respect to the circumstances surrounding the statement and with respect to his or her credibility;

(3) If the defendant does testify at the hearing, he or she does not by so testifying waive the right to remain silent during the trial; and

(4) If the defendant does testify at the hearing, neither this fact nor his or her testimony at the hearing shall be mentioned to the jury unless he or she testifies concerning the statement at trial.

(c) Duty of Court To Make a Record. After the hearing, the court shall state its findings of fact and conclusions of law as to the admissibility or inadmissibility of the statement.

(d) Rights of Defendant When Statement Is Ruled Admissible. If the court finds that the statement is admissible, and it is offered in evidence:

(1) The defense may offer evidence or cross-examine the witnesses with respect to the statement without waiving an objection to the admissibility of the statement;

(2) Unless the defendant testifies at the trial concerning the statement, no reference shall be made to the fact, if it be so, that the defendant testified at the preliminary hearing on the admissibility of the statement;

(3) If the defendant becomes a witness on this issue, he or she shall be subject to cross examination to the same extent as would any other witness; and

(4) If the defense raises the issue of voluntariness under subsection (d)(1), the jury shall be instructed that it may give such weight and credibility to the statement, in view of the surrounding circumstances, as it sees fit.

[Adopted effective September 1, 1987.]

RULE 3.6 SUPPRESSION PROCEDURE

(a) Pleadings; Determination Regarding Hearing. Motions to suppress physical, oral or identification evidence other than motions pursuant to rule 3.5 shall be in writing supported by an affidavit or document as provided in RCW 9A.72.085 or any law amendatory thereto, setting forth the facts the moving party anticipates will be elicited at a hearing. If there are no disputed facts, the court shall determine whether an evidentiary hearing is required. If the court determines that no evidentiary hearing is required, the court shall set forth its reasons for not conducting an evidentiary hearing.

(b) Decision. The court shall state findings of fact and conclusions of law.

Adopted 108 Wn.2d 1149 effective September 1, 1987
Amended 130 Wn.2d 1102 effective January 2, 1997

RULE CrRLJ 4.1 ARRAIGNMENT

(a) Procedures. After the complaint or the citation and notice has been filed, the defendant shall be arraigned thereon in open court.

(1) Time.

(i) The defendant shall be arraigned not later than 15 days after the date the complaint is filed in court, if the defendant is (A) detained in a county or city jail in the county where the charges are pending, or (B) subject to conditions of release imposed in connection with the same charges.

(ii) The defendant shall be arraigned not later than 15 days after that appearance which next follows the filing of the complaint or citation and notice, if the defendant is not detained in such jail or subject to such conditions of release. Any delay in bringing the defendant before the court shall not affect the allowable time for arraignment, regardless of the reason for the delay. For purposes of this rule, "appearance" has the meaning defined in CrRLJ 3.3(a)(3)(iii).

(2) Reading and Plea. Arraignment shall consist of reading the complaint or the citation and notice to the defendant or stating to him or her the substance of the charge and calling on the defendant to plead thereto. The defendant shall be given a copy of the complaint or the citation and notice before being called upon to plead, unless a copy has previously been supplied. The defendant shall not be required to plead to the complaint or the citation and notice until he or she shall have had a reasonable time to examine it and to consult with a lawyer, if requested.

(3) Advisement. At arraignment, unless the defendant appears with a lawyer, the court shall advise the defendant on the record:

(i) of the right to trial by jury if applicable; and

(ii) of the right to be represented by a lawyer at arraignment and to have an appointed lawyer for arraignment if the defendant cannot afford one.

(b) Objection to Arraignment Date---Loss of Right to Object. A party who objects to the date of arraignment on the ground that it is not within the time limits prescribed by this rule must state the objection to the court at the time of the arraignment. If the court rules that the objection is correct, it shall establish and announce the proper date of arraignment. That date shall constitute the arraignment date for purposes of CrRLJ 3.3. A party who fails to object as required shall lose the right to object, and the arraignment date shall be conclusively established as the date upon which the defendant was actually arraigned.

(c) Waiver.

(1) Jury Trial. A waiver of jury trial at arraignment must be in writing and signed by the defendant. If the defendant waives a jury trial at arraignment, he or she must be advised of the right to withdraw the waiver and request a jury trial within 10 days of arraignment.

(2) Lawyer. If the defendant chooses to proceed without a lawyer, the court shall determine on the record that the waiver is made voluntarily, competently and with knowledge of the consequences. The defendant must be advised that waiver of a lawyer at arraignment does not preclude the defendant from asserting the right to a lawyer later in the proceedings.

(d) Name. At arraignment, the court shall ask the defendant his or her true name. If the defendant's name has been incorrectly stated in the complaint or citation and notice, the court shall order the complaint or citation and notice to be corrected accordingly.

(e) Appearance by Defendant's Lawyer. Except as otherwise provided by statute or by local court rule, a lawyer may enter an appearance or a plea of not guilty on behalf of a client for any offense. Such appearance or plea may be entered only after a complaint or citation and notice has been filed.

(1) The appearance or the plea of not guilty shall be made only in writing or in open court, and eliminates the need for a further arraignment.

(2) An appearance that waives arraignment but fails to state a plea shall be deemed to constitute entry of a plea of not guilty.

(3) An appearance under this rule constitutes a waiver of any defect in the complaint or the citation and notice except for failure to charge a crime which may be raised at any time and except for any other defect that is specifically stated in writing or on the record at the time the appearance is entered.

(4) A written appearance shall commence the running of the time periods established in rule 3.3 from the date of its receipt

by the court, unless the time periods have previously been commenced by an appearance in open court.

(5) Telephonic requests or notices by either the defendant or the defendant's lawyer shall not constitute an arraignment or an appearance or entry of a plea, and shall not commence the running of the time periods under rule 3.3.

(6) The appearance by a lawyer authorized by this rule shall be construed as an "arraignment" under the other provisions of these rules.

[Amended effective September 1, 1995; September 1, 2003.]

CrRLJ 4.2
PLEAS AND PRETRIAL DISPOSITION

(a) Types. A defendant may plead not guilty, not guilty by reason of insanity, or guilty.

(b) Multiple Offenses. When the complaint or the citation and notice charges two or more offenses in separate counts the defendant shall plead separately to each.

(c) Pleading Insanity; Claiming Incompetency. Written notice of an intent to rely on the insanity defense must be filed at or within 10 days of the time of arraignment, or at such later time as the court may for good cause permit. A claim of present incompetency to stand trial shall be raised at arraignment or as soon as possible thereafter. All procedures concerning the defense of insanity or the competence of the defendant to stand trial are governed by RCW 10.77 or any applicable ordinance.

(d) Voluntariness. The court shall not accept a plea of guilty without first determining that it is made voluntarily, competently, and with an understanding of the nature of the charge and the consequences of the plea. The court shall not enter a judgment upon a plea of guilty unless it is satisfied that there is a factual basis for the plea.

(e) Agreements. If a plea of guilty is based upon an agreement between the defendant and the prosecuting authority, such agreement must be made a part of the record at the time the plea is entered. No agreement shall be made which specifies what action the court shall take on or pursuant to the plea, or which attempts to control the exercise of the courts discretion, and the court shall so advise the defendant.

(f) Withdrawal of Plea. The court shall allow a defendant to withdraw his or her plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice.

(g) Written Statement. A written statement of the defendant in substantially the form set forth below shall be filed on a plea of guilty:

(h) Verification by Interpreter. If a defendant is not fluent in the English language, a person the court has determined has fluency in the defendant's language shall certify that the written statement provided for in section (g) has been translated orally or in writing and that the defendant has acknowledged that he or she understands the translation.

(i) Deferred Prosecution. A written petition shall be filed at the time a defendant moves the court to grant a deferred prosecution under RCW Chapter 10.05. The petition shall be in substantially the following form:

[Amended effective September 1, 1991; January 2, 1996; September 1, 1996; September 1, 1999; December 28, 1999; December 26, 2000; April 16, 2002; August 6, 2002; April 24, 2007.]

4.2 STATEMENT OF DEFENDANT ON PLEA OF GUILTY (IN WORD FORMAT)

The contents of this item are only available [on-line](#).

4.2A "DUI" ATTACHMENT: DRIVING UNDER THE INFLUENCE OF ALCOHOL AND/OR ACTUAL PHYSICAL CONTROL OF A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS (IN WORD FORMAT)

The contents of this item are only available [on-line](#).

4.2B "OFFENDER REGISTRATION" ATTACHMENT: SEXUAL MISCONDUCT WITH A MINOR IN THE SECOND DEGREE (IN WORD FORMAT)

The contents of this item are only available [on-line](#).

4.2C INTERPRETER DECLARATION

The contents of this item are only available [on-line](#).

4.2 PETITION FOR DEFERRED PROSECUTION (DPPF) (IN WORD FORMAT)

The contents of this item are only available [on-line](#).

4.2 PETITION FOR DEFERRED PROSECUTION OF CRIMINAL MISTREATMENT CHARGE (IN WORD FORMAT)

The contents of this item are only available [on-line](#).

RULE 4.3
JOINDER OF OFFENSES AND DEFENDANTS

(a) Joinder of Offenses. Two or more offenses may be joined in one charging document, with each offense stated in a separate count, when the offenses:

(1) Are of the same or similar character, even if not part of a single scheme or plan; or

(2) Are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan. The number of offenses in one charging document may be governed by local court rule.

(b) Joinder of Defendants. Unless otherwise provided by local court rule, two or more defendants may be joined in the same charging document:

(1) When each of the defendants is charged with accountability for each offense included;

(2) When each of the defendants is charged with conspiracy and one or more of the defendants is also charged with one or more offenses alleged to be in furtherance of the conspiracy; or

(3) When, even if conspiracy is not charged and all of the defendants are not charged in each count, it is alleged that the several offenses charged:

(i) were part of a common scheme or plan; or

(ii) were so closely connected in respect to time, place and occasion that it would be difficult to separate proof of one charge from proof of the others. Such defendants may be charged in one or more counts together or separately and it shall not be necessary to charge all defendants in each count.

(c) Improper Joinder. Improper joinder of offenses or defendants shall not preclude subsequent prosecution on the same charge for the charge or defendant improperly joined.

RULE 4.3.1
CONSOLIDATION FOR TRIAL

(a) Consolidation Generally. Offenses or defendants properly joined under rule 4.3 shall be consolidated for trial unless the court orders severance pursuant to rule 4.4.

(b) Failure To Join Related Offenses.

(1) Two or more offenses are related offenses, for purposes of this rule, if they are within the jurisdiction and venue of the same court and are based on the same conduct.

(2) When a defendant has been charged with two or more related offenses, his or her timely motion to consolidate them for trial should be granted unless the court determines that because the prosecuting authority does not have sufficient evidence to warrant trying some of the offenses at that time, or for some other reason, the ends of justice would be defeated if the motion were granted. A defendant's failure to so move constitutes a waiver of any right of consolidation as to related offenses with which the defendant knew he or she was charged.

(3) A defendant who has been tried for one offense may thereafter move to dismiss a charge for a related offense, unless a motion for consolidation of these offenses was previously denied or the right of consolidation was waived as provided in this rule. The motion to dismiss must be made prior to the second trial, and shall be granted unless the court determines that because the prosecuting authority was unaware of the facts constituting the related offense or did not have sufficient evidence to warrant trying this offense at the time of the first trial, or for some other reason, the ends of justice would be defeated if the motion were granted.

(4) Entry of a plea of guilty to one offense does not bar the subsequent prosecution of a related offense unless the plea of guilty was entered on the basis of a plea agreement in which the prosecuting authority agreed to seek or not to oppose dismissal of other related charges or not to prosecute other potential related charges.

(c) Authority of Court To Act. The court may order consolidation for trial of two or more charging documents if the offenses or defendants could have been joined in a single charging document under rule 4.3.

RULE CrRLJ 4.4
SEVERANCE OF OFFENSES AND DEFENDANTS

(a) Timeliness of Motion; Waiver.

(1) A defendant's motion for severance of offenses or defendants must be made before trial, except that a motion for severance may be made before or at the close of all the evidence if the interests of justice require. Severance is waived if the motion is not made at the appropriate time.

(2) If a defendant's pretrial motion for severance was overruled he or she may renew the motion on the same ground before or at the close of all the evidence. Severance is waived by failure to renew the motion.

(b) Severance of Offenses. The court, on application of the prosecuting authority, or on application of the defendant other than under section (a), shall grant a severance of offenses whenever before trial or during trial with consent of the defendant, the court determines that severance will promote a fair determination of the defendant's guilt or innocence of each offense.

(c) Severance of Defendants.

(1) A defendant's motion for severance on the ground that an out-of-court statement of a codefendant referring to him or her is inadmissible against him or her shall be granted unless:

(i) the prosecuting authority elects not to offer the statement in the case in chief; or

(ii) deletion of all references to the moving defendant will eliminate any prejudice to him or her from the admission of the statement.

(2) The court, on application of the prosecuting authority, or on application of the defendant other than under subsection

(i), should grant a severance of defendants whenever:

(i) if before trial, it is deemed necessary to protect a defendant's rights to a speedy trial, or it is deemed appropriate to promote a fair determination of the guilt or innocence of a defendant; or

(ii) if during trial upon consent of the severed defendant, it is deemed necessary to achieve a fair determination of the guilt or innocence of a defendant.

(3) When such information would assist the court in ruling on a motion for severance of defendants, the court may order the prosecuting authority to disclose any statements made by the defendants which he or she intends to introduce in evidence at the trial.

(d) Failure To Prove Grounds for Joinder of Defendants. If pursuant to section (a), a defendant moves to be severed at the conclusion of the prosecuting authority's case or of all the evidence, and there is not sufficient evidence to support the grounds upon which the moving defendant was joined or previously denied severance, the court shall grant severance if, in view of this lack of evidence, failure to sever prejudices the moving defendant.

(e) Authority of Court To Act on Own Motion. The court may order a severance of offenses or defendants before trial if a severance could be obtained on motion of a defendant or the prosecuting authority.

[Adopted effective September 1, 1987; amended effective September 1, 2007.]

RULE 4.5

PRETRIAL HEARING

When a plea of not guilty is entered, the court may set a time for a pretrial hearing. The time set for the pretrial hearing should allow sufficient time for the lawyers to initiate and complete discovery, conduct further investigation of the case as needed, and continue plea discussions.

RULE 4.6
DEPOSITIONS

(a) When Taken. Upon a showing that a prospective witness may be unable to attend or prevented from attending a trial or hearing or if a witness refuses to discuss the case with either lawyer and that his or her testimony is material and that it is necessary to take his or her

deposition in order to prevent a failure of justice, the court at any time after the filing of a complaint or citation and notice may upon motion of a party and notice to the parties order that his or her testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place.

(b) Notice of Taking. The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time and may change the place of taking.

(c) How Taken. A deposition shall be taken in the manner provided in civil actions. No deposition shall be used in evidence against any defendant who has not had notice of and an opportunity to participate in or be present at the taking thereof.

(d) Use. Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as witness, or as substantive evidence under circumstances permitted by the Rules of Evidence.

(e) Objections to Admissibility. Objections to receiving in evidence a deposition or part thereof may be made as provided in civil actions.

RULE CrRLJ 4.7
DISCOVERY

(a) Prosecuting Authority's Obligations.

(1) Except as otherwise provided by protective orders or as to matters not subject to disclosure, the prosecuting authority shall, upon written demand, disclose to the defendant the following material and information within his or her possession or control concerning:

(i) the names and addresses of persons whom the prosecuting authority intends to call as witnesses at the hearing or trial, together with any written or recorded statements and the substance of any oral statements of such witnesses;

(ii) any written or recorded statements and the substance of any oral statements made by the defendant, or made by a codefendant if the trial is to be a joint one;

(iii) any reports or statements of experts made in connection with the particular case, including results of physical or mental examinations and scientific tests, experiments, or comparisons;

(iv) any books, papers, documents, photographs, or tangible objects which the prosecuting authority intends to use in the hearing or trial or which were obtained from or belonged to the defendant;

(v) any record of prior criminal convictions known to the prosecuting authority of the defendant and of persons whom the prosecuting authority intends to call as witnesses at the hearing or trial;

(vi) any electronic surveillance, including wiretapping, of the defendant's premises or conversations to which the defendant was a party and any record thereof;

(vii) any expert witnesses whom the prosecuting authority will call at the hearing or trial, the subject of their testimony, and any reports relating to the subject of their testimony that they have submitted to the prosecuting authority;

(viii) any information indicating entrapment of the defendant;

(ix) specified searches and seizures;

(x) the acquisition of specified statements from the defendant; and

(xi) the relationship, if any, of specified persons to the prosecuting authority.

(2) Unless the court orders otherwise, discoverable materials shall be made available for inspection and copying within 21 days of arraignment or within 21 days of receipt of the demand by the prosecuting authority, whichever is later.

(3) Except as otherwise provided by protective orders, the prosecuting authority shall disclose to defendant's lawyer any material or information within his or her knowledge which tends to negate defendant's guilt as to the offense charged.

(4) The prosecuting authority's obligation under this section

is limited to material and information within the actual knowledge, possession, or control of members of his or her staff.

(b) Defendant's Obligations.

(1) Except as otherwise provided by protective orders or as to matters not subject to disclosure, the defendant shall, upon written demand, disclose to the prosecuting authority the following material and information within his or her possession or control concerning:

(i) the names and addresses of persons whom the defendant intends to call as witnesses at the hearing or trial, together with any written or recorded statements and the substance of any oral statements of such witnesses;

(ii) any books, papers, documents, photographs, or tangible objects which the defendant intends to use in the hearing or trial;

(iii) any expert witnesses whom the defendant will call at the hearing or trial, the subject of their testimony, and any reports relating to the subject of their testimony that they have submitted to the defendant;

(iv) any claim of incompetency to stand trial;

(v) whether his or her prior convictions will be stipulated or need to be proved;

(vi) whether or not he or she will rely on a defense of insanity at the time of the offense; and

(vii) the general nature of his or her defense.

(2) Unless the court orders otherwise, discoverable materials shall be made available for inspection and copying not later than 14 days prior to the date set for trial.

(3) References in this section to defendant shall be deemed to include the defendant's lawyer, where appropriate.

(c) Physical and Demonstrative Evidence.

(1) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, the court on motion of the prosecuting authority or the defendant may require or allow the defendant to:

(i) appear in a lineup;

(ii) speak for identification by a witness to an offense;

(iii) be fingerprinted;

(iv) pose for photographs not involving reenactment of the crime charged;

(v) try on articles of clothing;

(vi) permit the taking of samples of or from his or her blood, hair, and other materials of his or her body including materials under his or her fingernails which involve no unreasonable intrusion thereof;

(vii) provide specimens of his or her handwriting; and

(viii) submit to a reasonable physical, medical, or psychiatric inspection or examination.

(2) Provisions may be made for appearance for the purposes stated in this section in an order for pretrial release.

(d) Material Held by Others. Upon defendant's request and designation of material or information in the knowledge, possession or control of other persons which would be discoverable if in the knowledge, possession or control of the prosecuting authority, the prosecuting authority shall attempt to cause such material or information to be made available to the defendant. If the prosecuting authority's efforts are unsuccessful and if such material or persons are subject to the jurisdiction of the court, the court shall issue suitable subpoenas or orders to cause such material to be made available to the defendant.

(e) Discretionary Disclosures.

(1) Upon a showing of materiality and if the request is reasonable, the court in its discretion may require disclosure of the relevant material and information not covered by sections (a) and (d).

(2) The court may condition or deny disclosure authorized by

this rule if it finds that there is a substantial risk to any person of physical harm, intimidation, bribery, economic reprisals or unnecessary annoyance or embarrassment resulting from such disclosure, which outweigh any usefulness of the disclosure to the defendant.

(f) Matters Not Subject to Disclosure.

(1) Work Product. Disclosure shall not be required of legal research or of records, correspondence, reports or memoranda to the extent that they contain the opinions, theories or conclusions of investigating or prosecuting agencies except as to material discoverable under subsection (a) (1) (iii).

(2) Informants. Disclosure of an informant's identity shall not be required when his or her identity is a prosecution secret and a failure to disclose will not infringe upon the constitutional rights of the defendant. Disclosure of the identity of witnesses to be produced at a hearing or trial shall not be denied.

(g) Regulation of Discovery.

(1) Investigations Not To Be Impeded. Except as otherwise provided by protective orders or as to matters not subject to disclosure, neither the lawyers for the parties nor other prosecution or defense personnel shall advise persons, other than the defendant, who have relevant material or information to refrain from discussing the case with the opposing lawyer or showing the opposing lawyer any relevant material, nor shall they otherwise impede the opposing lawyer's investigation of the case.

(2) Continuing Duty To Disclose. If, after compliance with this rule or orders pursuant to it, a party discovers additional material or information which is subject to disclosure, he or she shall promptly notify the other party or his or her lawyer of the existence of such additional material. If the additional material or information is discovered during trial, the court shall also be notified.

(3) Custody of Materials. Any materials furnished to a lawyer pursuant to these rules shall remain in the exclusive custody of the lawyer and be used only for the purposes of conducting the party's side of the case, unless otherwise agreed by the parties or ordered by the court, and shall be subject to such other terms and conditions as the parties may agree or the court may provide. Further, a defense lawyer shall be permitted to provide a copy of the materials to the defendant after making appropriate redactions which are approved by the prosecuting authority or order of the court.

(4) Protective Orders. Upon a showing of cause, the court may at any time order that specified disclosure be restricted or deferred or make such other order as is appropriate, provided that all material and information to which a party is entitled must be disclosed in time to permit his or her lawyer to make beneficial use of it.

(5) Excision. When some parts of certain material are discoverable under this rule and other parts are not discoverable, as much of the material shall be disclosed as is consistent with this rule. Material excised pursuant to judicial order shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(6) In Camera Proceedings. Upon request of any person, the court may permit any showing of cause for denial or regulation of disclosure, or portion of such showing, to be made in camera. A record shall be made of such proceedings. If the court enters an order granting relief following a showing in camera, the entire record of such showing shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal.

(7) Sanctions.

(i) If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with an applicable discovery rule or an order issued pursuant thereto, the court may order such party to permit the discovery of material and information not previously disclosed, grant a continuance, or enter such other order as it deems just under the circumstances.

(ii) The court may at any time dismiss the action if the court determines that failure to comply with an applicable discovery rule or an order issued pursuant thereto is the result of a willful violation or of gross negligence and that the defendant was prejudiced by such failure.

(iii) A lawyers willful violation of an applicable discovery rule or an order issued pursuant thereto may subject the lawyer to appropriate sanctions by the court.

[Adopted effective September 1, 1987; September 1, 2005.]

RULE 4.8
SUBPOENAS

(a) Issuance for Witnesses. The defendant and the prosecuting authority may subpoena witnesses necessary to testify at a scheduled hearing or trial. The subpoena may only be issued by a judge, court commissioner, clerk of the court, or by a party's lawyer. If a party's lawyer issues a subpoena, a copy shall be filed with the court. If the subpoena is for a witness outside the county or counties contiguous with it, the judge must approve the subpoena.

(b) Subpoena Duces Tecum.

(1) Upon application of either party, the court may issue a subpoena duces tecum, commanding the person to whom it is directed to produce books, papers, documents or other objects designated in it. The court may direct that books, papers, documents or objects designated in the subpoena be produced before the court at a time prior to the trial or prior to the time when they are to be offered in evidence and may, upon their production, permit the books, papers, documents or objects, or portions of them, to be inspected by the parties and their lawyers.

(2) On motion made promptly the court may quash or modify the subpoena duces tecum if compliance would be illegal, unreasonable or oppressive.

(c) Service. A subpoena may be directed for service within their jurisdiction to the sheriff of any county or to any peace officer of any municipality in which the witness may be, or it may be served as provided in CRLJ 45(c), or it may be served by first-class mail, postage prepaid, sent to the witness' last known address. Service by mail shall be deemed complete upon the third day following the day upon which the subpoena was placed in the mail.

(d) Proof of Service.

(1) When personal service is made by someone other than a sheriff or peace officer, proof shall be by affidavit or by certification under RCW 9A.72.085 or any law amendatory thereof.

(2) Proof of service by mail may be by affidavit or certification, under RCW 9A.72.085 or any law amendatory thereof, of the person who mailed the papers, or by written acknowledgment of service.

(e) Sanctions.

(1) If at any time during the proceedings it is brought to the courts attention that a party's lawyer has abused the power to issue subpoenas, the court may impose upon the lawyer such terms as are just.

(2) No subpoena shall be the basis for a material witness warrant or a contempt of court citation unless there is proof of personal receipt.

RULE 4.9
PROCESS--CRIMINAL

The court may issue criminal process to any person anywhere in the state.

RULE 4.10
MATERIAL WITNESS

(a) Warrant. On motion of the prosecuting authority or the defendant, the court may issue a warrant, subject to reasonable bail, for the arrest of a material witness. The warrant shall issue only on a showing, by affidavit or on the record in open court, that the testimony of the witness is material and that

(1) The witness has refused to submit to a deposition ordered by the court pursuant to rule 4.6; or

(2) The witness has refused to obey a lawfully issued subpoena; or

(3) It may become impracticable to secure the presence of the witness by subpoena. Unless otherwise ordered by the court, the warrant shall be executed and returned as in rule 2.2.

(b) Hearing. After the arrest of the witness, the court shall hold a hearing no later than the next court day after the witness is present in the county from which the warrant issued. The witness shall be entitled to be represented by a lawyer. The court shall appoint a lawyer for an indigent witness if it is required to protect the rights of the witness.

(c) Release/Detention. Upon a determination that the testimony of the witness is material and that one of the conditions set forth in section (a) exists, the court shall set conditions for release of the witness pursuant to rule 3.2. A material witness shall be released unless the court determines that the testimony of such witness cannot be secured adequately by deposition and that further detention is necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to rule 4.6.

RULE 5.1
COMMENCEMENT OF ACTIONS

(a) Where Commenced Under Municipal Ordinance. All actions alleging a violation of a municipal ordinance shall be commenced in the municipal court, in the municipal department of the district court where the municipality is located, or in a district court pursuant to an interlocal government agreement.

(b) Where Commenced Under Other Laws.

(1) All other actions shall be commenced in the district where the alleged offense was committed, or in any district wherein an element of the alleged offense was committed or occurred.

(2) The action may also be brought:

(i) in the district in which the county seat is located, if

(a) the alleged offense is a felony, or (b) if the defendant consents;

or

(ii) in an adjacent district in the same county, if the alleged offense relates to driving, or being in actual physical control of a motor vehicle and occurred within an enhanced enforcement district under RCW 2.56.110 or any law amendatory thereof; or

(iii) in a district where a custodial facility is located, if the defendant is incarcerated therein and transporting the defendant is not practical.

(c) Two or More Districts. Where there is reasonable doubt whether an alleged offense has been committed in one of two or more districts, the action may be commenced in any such district.

(d) Right To Change. When a case is filed pursuant to section (c) of this rule, the defendant shall have the right to change venue to any other district in which the offense may have been committed.

(e) Objection. Any objection to venue must be made as soon after the initial pleading is filed as the defendant has knowledge upon which to make it.

RULE 5.2
CHANGE OF VENUE

(a) When Ordered--Improper District. The court shall order a change of venue upon motion and showing that the action has not been prosecuted in the proper district.

(b) When Ordered--On Motion. The court may order a change of venue to another district in the same county, if any, or otherwise to an adjacent district in another county if the defendant consents:

(1) Upon written agreement of the prosecuting authority and the defendant; or

(2) Upon motion of the defendant, supported by affidavit, that the defendant believes he or she cannot receive a fair trial in the district where the action is pending; or

(3) Upon motion of either party that the convenience of witnesses or the ends of justice would be served by such change; or

(4) Upon motion of either party or the court, to a district where a custodial facility is located, if the defendant is incarcerated therein and transporting the defendant is not practical.

(5) Upon the court's own motion, if all of the judges of a district are disqualified from hearing the case. The court may also order a change of venue to the district in which the county seat is located, if the defendant consents.

(c) Procedure on Transfer. When the court orders a change of venue it shall direct that all the papers and proceedings be certified to the court of the proper district. The defendant and subpoenaed witnesses shall have a continuing obligation to appear and attend as required.

RULE 5.3
SEVERAL CHARGING DOCUMENTS FOR SAME
OFFENSE--DIFFERENT COURTS

If two or more charging documents are filed against the same defendant for the same offense in different courts, and if each court has jurisdiction, the court in which the first charging document was filed shall try the case. Upon motion by either party, or the court, the second or several charging documents shall be forwarded for consolidation and trial to the court in which a charging document was first filed.

RULE 6.1.1
TRIAL BY JURY

(a) Trial by Jury. Cases required to be tried by a jury shall be so tried unless the defendant files a written waiver of a jury trial, and has consent of the court.

(b) Demand by Prosecution. The prosecuting authority may demand a jury trial when authorized by law. The demand shall be in writing and filed with the court within 15 days after the defendant is arraigned. Notice of the demand shall be served upon the defendant promptly thereafter.

(c) Number of Jurors. The number of persons serving on a jury shall be six, not including alternates.

(d) Juror Unable To Continue. If a case has not yet been submitted to the jury and a juror is unable to continue and no alternate jurors were selected or none are available, or if a case has been submitted to the jury and a juror is unable to continue, all defendants may elect to continue with the remaining jurors. The court shall declare a mistrial for any defendant who does not elect to continue with the remaining jurors. If some, but not all, defendants elect to continue with the trial, the court shall proceed with the trial for those defendants unless the court determines manifest necessity requires a mistrial.

RULE 6.1.2
TRIAL BY THE COURT

(a) Trial Without Jury. In a case tried without a jury, the court shall state separately findings of fact and conclusions of law.

(b) Stipulation or Submittal. A defendant, with the approval of the prosecuting authority, may submit his or her case upon the police report and other materials by stipulating to the admissibility thereof in lieu of testimony. A written statement of the defendant in substantially the form set forth below may be filed:

STATE OF WASHINGTON

COUNTY OF _____,)	Case No. _____
THE STATE OF WASHINGTON,)	
CITY OR TOWN OF _____,)	
Plaintiff,)	STATEMENT OF DEFENDANT
v.)	ON SUBMITTAL OR
_____,)	STIPULATION OF FACTS
Defendant.)	

I am the defendant in this case. I wish to submit the case on the record. I understand that this means that the judge will read the police report and other materials and, based upon that evidence, the judge will decide if I am guilty of the crime(s) of _____.

I understand that, by this process, I am giving up the constitutional right to a jury trial, the right to hear and question witnesses, the right to call witnesses in my own behalf, and the right to testify or not to testify.

I understand that the maximum sentence for the crime(s) is _____

and that the judge can impose any sentence up to the maximum, no matter what the prosecution or the defense recommends.

No one has made any threats or promises to get me to submit this case other than the prosecuting authority's promise to take the following action and/or make the following recommendations:

Dated this _____ day of _____, 19____.

Defendant

For the Prosecuting Authority

Lawyer for Defendant

RULE 6.1.3
ORDER OF TRIAL

The order of trial shall be as follows, where applicable:

- (a) The jury shall be sworn well and truly to try the case.
 - (b) Unless both parties waive opening statements, the prosecuting authority shall make the opening statement outlining the evidence which will be offered by the prosecution, and the defense may immediately thereafter make an opening statement or such opening statement may be reserved until after the conclusion of the prosecutions case in chief.
 - (c) The prosecution shall submit its evidence.
 - (d) The defense may challenge the sufficiency of the evidence at the close of the prosecutions case in chief, and, if sustained, the case shall be dismissed; otherwise, the defense may then offer its evidence.
 - (e) The parties may thereafter offer evidence in rebuttal and surrebuttal. The court, for good cause shown or in the interest of justice, may permit the parties to offer evidence upon their original cases.
 - (f) The instructions shall be given prior to closing argument.
 - (g) The prosecution may argue its case after which the defense may argue followed by the prosecutions rebuttal. The length of time of all arguments shall be fixed by the court in its discretion and announced before the arguments are commenced. Equal time shall be allowed each party.
 - (h) After argument, the jury shall retire to consider its verdict, or the court shall state its findings of fact and conclusions of law.
-

RULE 6.2
JURORS' ORIENTATION

All jurors shall be given a general orientation when they report for jury. A copy of the Jurors Handbook to Washington Courts prepared by the Superior Court Judges' Association of the State of Washington and the District and Municipal Court Judges' Association should be provided to all jurors.

RULE 6.3
SELECTING THE JURY

When the case is called for trial, the jurors shall be selected at random from the jurors summoned who have appeared and have not been excused.

RULE 6.4
CHALLENGES

- (a) Challenges to the Entire Panel. Challenges to the entire panel shall only be sustained for a material departure from the procedures prescribed by law for their selection.
- (b) Voir Dire. A voir dire examination shall be conducted under oath for the purpose of discovering any basis for challenge for cause and for the purpose of gaining knowledge to enable an intelligent exercise of peremptory challenges. The judge shall initiate the voir dire examination by identifying the parties and their respective lawyers and by briefly outlining the nature of the case. The judge and the lawyers may then ask the prospective jurors questions touching their qualifications to serve as jurors in the case, subject to the supervision of the court as appropriate to the facts of the case.
- (c) Challenges for Cause.
 - (1) If the judge after examination of any juror is of the opinion that grounds for challenge are present, he or she shall excuse that juror from

the trial of the case. If the judge does not excuse the juror, any party may challenge the juror for cause.

(2) RCW 4.44.150 through 4.44.190 shall govern challenges for cause.

(d) Exceptions to Challenge.

(1) Determination. The challenge may be excepted to by the adverse party for insufficiency and, if so, the court shall determine the sufficiency thereof, assuming the facts alleged therein to be true. The challenge may be denied by the adverse party and, if so, the court shall try the issue and determine the laws and the facts.

(2) Trial of Challenges. Upon trial of a challenge, the rules of evidence applicable to testimony offered upon the trial of an ordinary issue of fact shall govern. The juror challenged, or any other person otherwise competent, may be examined as a witness by either party. If a challenge be determined to be sufficient, or if found to be true, as the case may be, it shall be allowed, and the juror to whom it was taken excluded; but if not so determined or found otherwise, it shall be disallowed.

(e) Peremptory Challenges.

(1) Peremptory Challenges Defined. A peremptory challenge is an objection to a juror for which there is no reason given, but upon which the court shall exclude the juror. The defense and the prosecuting authority may peremptorily challenge three jurors each. When several defendants are on trial together, each defendant shall be entitled to one challenge in addition to the number of challenges provided above, with discretion in the trial judge to afford the prosecuting authority such additional challenges as circumstances warrant.

(2) Peremptory Challenges--How Taken. After prospective jurors have been passed for cause, peremptory challenges shall be exercised alternately first by the prosecution then by each defendant, until the peremptory challenges are exhausted or the jury accepted. Acceptance of the jury as presently constituted shall not waive any remaining peremptory challenges to jurors subsequently called.

RULE 6.5 ALTERNATE JURORS

When the jury is selected the court may direct the selection of one or more additional jurors, in its discretion, to be known as alternate jurors. Each party shall be entitled to one peremptory challenge for each alternate juror to be selected. When several defendants are on trial together, each defendant shall be entitled to one challenge in addition to the challenge provided above, with discretion in the trial judge to afford the prosecuting authority such additional challenges as circumstances warrant. If at any time before submission of the case to the jury a juror is found unable to perform his or her duties the court shall order the juror discharged, and the clerk shall draw the name of an alternate who shall take the jurors place on the jury.

RULE 6.6 JURORS' OATH

The jury shall be sworn or affirmed well and truly to try the issue between the prosecuting authority and the defendant, according to the evidence and instructions by the court.

RULE 6.7 CUSTODY OF JURY

(a) Generally. During trial and deliberations the jury may be allowed to separate unless good cause is shown, on the record, for sequestration of the jury.

(b) Communication Restricted. Unless the jury is allowed to separate, the jurors shall be kept together under the charge of one or more officers until they agree upon their verdict or are discharged by the court. The officer shall keep the jurors separate from other persons and shall not allow any communication which may affect the case to be made to the jurors, nor make any himself or herself, unless by order of the court, except to ask the jurors if they have agreed upon their verdict. The officer shall not, before the verdict is rendered, communicate to any person the state of the jurors' deliberations or their verdict.

(c) Motions. Any motions or proceedings concerning the separation or

sequestration of the jury shall be made out of the presence of the jury.

RULE CrRLJ 6.8
NOTE-TAKING BY JURORS

In all cases, jurors shall be allowed to take written notes regarding the evidence presented to them and keep these notes with them during their deliberation. The court may allow jurors to keep these notes with them in the jury room during recesses, in which case jurors may review their own notes but may not share or discuss the notes with other jurors until they begin deliberating. Such notes should be treated as confidential between the jurors making them and their fellow jurors, and shall be destroyed immediately after the verdict is rendered.

[Adopted effective September 1, 1987; amended effective October 1, 2002.]

RULE 6.9
VIEW OF PREMISES BY JURY

The court may allow the jury to view the place in which any material fact occurred. In such event it shall order the jury to be conducted in a body, in the custody of a proper officer of the court to the place which shall be shown to them by the judge. The defendant shall be present at the view. During the view, no person other than the judge or person authorized by the judge shall speak to the jury on any subject relating to the trial.

RULE 6.10
DISCHARGE OF THE JURY

The jury may be discharged by the court on consent of both parties or when it appears that there is no reasonable probability of their reaching agreement.

RULE 6.11
JUDGE--DISABILITY

(a) Disability of Judge During Jury Trial. If, before the judge submits the cause to the jury, he or she is unable to continue with the trial, any other judge assigned to or regularly sitting in the court, upon becoming familiar with the record of the trial, may proceed with the trial. Upon defendant's objection to the replacement, a mistrial shall be granted. If, after the judge submits the case to the jury, he or she is unable to continue, the case shall proceed before another judge.

(b) Disability of Judge During Nonjury Trial. If a judge before whom trial without jury has commenced is unable to proceed with the trial, a mistrial shall be granted.

RULE 6.12
WITNESSES

(a) Who May Testify. Any person may be a witness in any action or proceeding under these rules except as hereinafter provided or as provided in the Rules of Evidence.

(b) When Excused. A witness subpoenaed to attend in a criminal case is dismissed and excused from further attendance as soon as he or she has given his or her testimony in chief and has been cross-examined thereon, unless either party makes request in open court that the witness remain in attendance; and witness fees will not be allowed any witness after the day

on which his or her testimony is given, except when the witness has in open court been required to remain in further attendance.

(c) Persons Incompetent To Testify. The following persons are incompetent to testify: (1) those who are of unsound mind, or intoxicated at the time of their production for examination; and (2) those who do not have the capacity of receiving just impressions of the facts about which they are examined or who do not have the capacity of relating them truly. This shall not affect any recognized privileges.

(d) Not Excluded on Grounds of Interest. No person offered as a witness shall be excluded from giving evidence by reason of his or her interest in the result of the action, as a party thereto or otherwise, but such interest may be shown to affect his or her credibility.

CrRLJ 6.13
EVIDENCE

(a) Rules of Evidence. The Rules of Evidence are applicable to criminal prosecutions.

(b) Test Reports by Experts.

(1) Generally. The official written report of an expert witness which contains the results of any test of a substance or object which are relevant to an issue in a trial shall be admitted in evidence without further proof or foundation as prima facie evidence of the facts stated in the report if the report bears the following certification:

TEST CERTIFICATION

The undersigned certifies under penalty of perjury that:

1. I performed the test on the (substance) (object) in question;

2. The person from whom I received the (substance) (object) in question is:

3. The document on which this certificate appears or to which it is attached is a true and complete copy of my official report; and

4. Such document is a report of the results of a test which report and test were made by the undersigned who has the following qualifications and experience:

_____.

Signature

Title

Business Address and Phone

(2) Exclusion of Test Reports. The court shall exclude test reports otherwise admissible under section (b) if:

(i) a copy of the certified report or certificate has not been delivered or mailed to the defendant or the defendant's lawyer at least 14 days prior to the trial date or, upon a showing of cause, such lesser time as the court deems proper, or

(ii) in the case of an unrepresented defendant, a copy of this rule in addition to a copy of the certified report or certificate has not been delivered or mailed to the defendant at least 14 days prior to the trial date or, upon a showing of cause, such lesser time as the court deems proper, or

(iii) at least 7 days prior to the trial date, or, upon a showing of cause, such lesser time as the court deems proper, the defendant has delivered or mailed a written demand upon the prosecuting authority to produce the expert witness at the trial.

(c) Breathalyzer Maintenance, Simulator Thermometer, BAC Verifier, and Simulator Solution Certificates.

(1) Admission of Certificate. In the absence of a request to produce a Breathalyzer maintenance technician, a BAC Verifier Data Master infrared instrument technician, or the person responsible for preparing or testing simulator solutions made at least 7 days prior to trial or such lesser time as the court deems proper, certificates substantially in the following forms are admissible in lieu of a state expert witness in any court proceeding held pursuant to RCW 46.61.506 for the purpose of determining whether a person was operating or in actual physical control of a motor vehicle while under the influence of intoxicating liquors:

BREATHALYZER MAINTENANCE AND
CHEMICAL CERTIFICATION

I, _____, do certify under penalty of perjury as follows:

I am a Breathalyzer technician possessing a valid permit or certificate issued to me by the state toxicologist by virtue of his rules, WAC 448-12 and RCW 46.61.506.

On _____ (date) at _____ (time) I examined, tested and calibrated a Breathalyzer machine with serial No. _____ using a sealed ampul of chemicals with control No. _____ according to the methods established and approved by the state toxicologist.

I further certify that said machine was, on that date, in proper working order, and that the chemicals in ampuls with the above control number are suitable for use in this machine.

Signature of Technician

Dated: _____

BAC VERIFIER DATA MASTER CERTIFICATION

I, _____, do certify under penalty of perjury as follows:

I am employed by _____ and am certified by the state toxicologist by virtue of applicable regulations and statutes.

On _____ (date) at _____ (time) I examined, tested and certified a BAC Verifier Data Master instrument with serial No. _____ according to the methods established and approved by the state toxicologist.

I further certify that said instrument was, on that date, in proper working order.

Signature of Technician

Dated: _____

BAC VERIFIER DATA MASTER SIMULATOR
SOLUTION CERTIFICATION

I, _____, do certify under penalty of perjury as follows:

I am employed by the Washington State Toxicology Laboratory, and a part of my responsibilities include preparing and testing the simulator solutions for the BAC Verifier Data Master breath test instrument. I possess the following qualifications:

_____.

The simulator solution, Lot Number _____ was prepared in the Washington State Toxicology Laboratory. I examined and tested this solution. It was found to conform to those standards established by the state toxicologist for the certification of

simulator solution.

Dated: _____

Signature

BAC DATAMASTER SIMULATOR THERMOMETER CERTIFICATION

I, _____, do certify under penalty of perjury under the laws of the State of Washington that the following is true and correct:

I am employed by the Washington State Patrol and am certified as a Technician by the state toxicologist by virtue of applicable regulations and statutes.

On _____ (date) at _____ (time) I tested and certified simulator thermometer _____ (serial number) which is installed in simulator _____ (serial number) and which is attached to BAC Data Master _____ (serial number). In performing the test I employed a protocol approved by the state toxicologist. I found the thermometer to comply with the standards for accuracy as required by the state toxicologist. The certification of this thermometer is valid for one year from the date of this certification.

Signature of Technician

Dated: _____

Location: _____ (city and state)

(2) Machine Not Working Properly--Certificate of Technician. If the technician determines that a Breathalyzer machine or a BAC Verifier Data Master instrument is not in proper working order at the time of examination, the technician shall delete the last paragraph from the appropriate certificate form set forth in section (c)(1) of this rule and shall certify substantially in the following form:

I further certify that said machine was not in proper working order on _____ (date) at _____ M.

I further certify that I repaired or corrected said machine as required on _____ (date) and as of that date at _____ M. said machine was again in proper working order (and that the chemicals in ampuls with the above control number are suitable for use in this machine.) (Cross out bracketed language if not applicable.)

Dated: _____

Technician

(3) Filing of Certificates by Clerk. The clerk of each court of limited jurisdiction shall maintain the certificates as a public record.

(d) Speed Measuring Device: Design and Construction Certification.

(1) Admission of Certificate. In the absence of proof of a request to produce an electronic or laser speed measuring device (SMD) expert served on the prosecuting authority and filed with the clerk of the court at least 30 days prior to trial or such lesser time as the court deems proper, a certificate substantially in the following form is admissible in lieu of an expert witness in any court proceeding in which the design and construction of an electronic or laser speed measuring device (SMD) is an issue:

CERTIFICATION CONCERNING DESIGN AND CONSTRUCTION
OF ELECTRONIC SPEED MEASURING DEVICES
AND LASER SPEED MEASURING DEVICES

I, _____, do certify under penalty of perjury as follows:

I am employed with _____ as a _____ . I have been employed in such a capacity for _____ years. Part of my duties include supervising the maintenance and repair of all electronic and laser speed measuring devices (SMDs) used by _____ (name of agency).

This agency currently uses the following SMDs:
(List all SMDs used and their manufacturers and identify which SMDs use laser technology.)

I have the following qualifications with respect to the above stated SMDs:

(List all degrees held and any special schooling regarding the SMDs listed above.)

This agency maintains manuals for all of the above stated SMDs. I am personally familiar with those manuals and how each of the SMDs are designed and operated. On _____ (date) testing of the SMDs was performed under my direction. The units were evaluated to meet or exceed existing performance standards. This agency maintains a testing and certification program. This program requires:

(State the program in detail.)

Based upon my education, training, and experience and my knowledge of the SMDs listed above, it is my opinion that each of these electronic pieces of equipment is so designed and constructed as to accurately employ the Doppler effect in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator or, in the case of the laser SMDs, each of these pieces of equipment is so designed and constructed as to accurately employ measurement techniques based on the velocity of light in such a manner that it will give accurate measurements of the speed of motor vehicles when properly calibrated and operated by a trained operator.

Signature

Dated: _____

(e) Continuance. The court at the time of trial shall hear testimony concerning the alleged offense and, if necessary, may continue the proceedings for the purpose of obtaining (1) the maintenance technicians presence for testimony concerning the working order of the Breathalyzer machine and the certification thereof, (2) evidence concerning the working order of the BAC Verifier Data Master instrument and the certification thereof, (3) evidence concerning the preparation of the BAC Verifier Data Master simulator solution and the certification thereof, or (4) evidence concerning an electronic speed measuring device or laser speed measuring device and the certification thereof. If, at the time it is supplied, the evidence is insufficient, a motion to suppress the results of such test or readings shall be granted.

[Amended effective September 1, 1987; September 1, 1998; September 1, 2002.]

RULE 6.14
IMMUNITY

In any case, the court on motion of the prosecuting authority may order that a witness shall not be excused from giving testimony or producing any papers, documents or things, on the ground that such testimony may tend to incriminate or subject the witness to a penalty or forfeiture arising from the commission of a gross misdemeanor, misdemeanor, or traffic infraction; but the witness shall not be prosecuted or subjected to criminal penalty or forfeiture for or on account of any gross misdemeanor, misdemeanor, or traffic infraction concerning which the witness has been ordered to testify pursuant to this rule. If such testimony may tend to incriminate or subject the witness to a penalty or forfeiture arising from the commission of a felony, immunity may only be sought with the concurrence of the prosecuting authority in whose county the offense occurred. The witness may nevertheless be prosecuted for failing to comply with the order to answer, or for perjury or the giving of false evidence.

RULE CrRLJ 6.15
INSTRUCTIONS AND ARGUMENT

(a) Proposed Instructions. Unless otherwise ordered by the court, proposed jury instructions shall be served and filed when a case is called for trial by serving one copy upon the lawyer for each party, by filing one copy with the clerk, and by delivering the original and one additional copy for each party to the trial judge. Additional instructions, which could not be reasonably anticipated, shall be served and filed at any time before the court has instructed the jury. Each proposed instruction shall be on a separate sheet of paper. The original shall not be numbered nor include citations of authority. A court of limited jurisdiction may adopt local rules permitting certain instructions to be requested by number from any published book of instructions.

(b) Objections to Instructions. Before instructing the jury, the court shall supply the lawyers with copies of the proposed instructions, verdict and special finding forms. The court shall afford the lawyers an opportunity in the absence of the jury to object to the giving of any instructions and the refusal to give a requested instruction or submission of a verdict or special finding form. The party objecting shall state the reasons for the objection, identifying the instruction and specifying the particular part of the instruction to be given or refused. The court shall provide the lawyer for each party with a copy of the instructions in final form.

(c) Instructing the Jury and Argument of Counsel. The court shall read the instructions to the jury. The prosecuting authority may then address the jury after which the defense may address the jury followed by the prosecuting authority's rebuttal.

(d) Deliberation. After argument, the jury shall retire to consider the verdict. The jury shall take with it the instructions given, all exhibits received in evidence, and a verdict form or forms.

(e) Questions from Jury During Deliberations.

(1) The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and submitted in writing to the bailiff. The court shall notify the parties of the contents of the questions and provide them an opportunity to comment upon an appropriate response. Written questions from the jury, the court's response and any objections thereto shall be made a part of the record. The court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the court may grant a jury's request to rehear or replay evidence, but should do so in a way that is least likely to be seen as a comment on the evidence, in a way that is not unfairly prejudicial and in a way that minimizes the possibility that jurors will give undue weight to such evidence. Any additional instruction upon any point of law shall be given in writing.

(2) After jury deliberations have begun, the court shall not instruct the jury in such a way as to suggest the need for agreement, the consequences of no agreement, or the length of time a jury will be required to deliberate.

(f) Several Offenses. The verdict forms for an offense charged or necessarily included in the offense charged or an attempt to commit either the offense charged or any offense necessarily included therein may be submitted to the jury.

[Adopted effective September 1, 1987; amended effective October 1, 2002.]

RULE 6.16
JURY VERDICTS AND FINDINGS

(a) Verdicts.

(1) Several Defendants. If there are two or more defendants, the jury

at any time during its deliberations may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed; if a jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again.

(2) Return of Verdict. When all members of the jury agree upon a verdict of guilty or not guilty, the presiding juror shall complete and sign the verdict form and return it to the judge in open court.

(3) Poll of Jurors. When a verdict or special finding is returned and before it is recorded, the jury shall be polled at the request of any party or upon the court's own motion. If at the conclusion of the poll, all of the jurors do not concur, the jury may be directed to retire for further deliberations or may be discharged by the court.

(b) Special Findings. The court may submit to the jury forms for such special findings which may be required or authorized by law. The court shall give such instruction as may be necessary to enable the jury both to make these special findings or verdicts and to render a general verdict. When a special finding is inconsistent with another special finding or with the general verdict, the court may order the jury to retire for further consideration.

RULE 7.1

(RESERVED)

RULE CrRLJ 7.2 SENTENCING

(a) Generally. The court shall state the precise terms of the sentence, which shall include credit for all time spent in custody in connection with the offense.

(b) Procedure at Time of Sentencing. The court shall, immediately after sentencing, unless the judgment and sentence are based on a plea of guilty, advise the defendant: (1) of the right to appeal the conviction pursuant to the RALJ or CrRLJ 9.1; (2) that unless a notice of appeal is filed in the court of limited jurisdiction within 30 days after the entry of the judgment and sentence or order appealed from, the right to appeal is waived; (3) that the notice of appeal must be served on all other parties; (4) that the court clerk will, if requested by the defendant appearing without a lawyer, supply a notice of appeal form; (5) of the defendant's right to a lawyer on appeal, and, if unable to pay the costs thereof, to have a lawyer appointed and portions of the trial record necessary for review prepared at public expense for an appeal; and (6) of the time limits on the right to collateral attack imposed by RCW 10.73.090 and .100. These proceedings shall be made a part of the record.

(c) Sentence. Before imposing sentence, the court shall afford the defendant, and the prosecuting authority, an opportunity to make a statement and to present information in extenuation, mitigation, or aggravation of punishment.

(d) Record. A record of the sentencing proceedings shall be made. The sentencing and judgment records of the courts of limited jurisdiction shall be preserved in perpetuity, either in an electronic or hard copy format. "Hard copy format" may include microfilm, microfiche, or a paper copy. The record of the sentencing proceedings shall be prima facie evidence of a valid conviction in subsequent proceedings in courts of limited jurisdiction and in superior court.

(e) Judgment and Sentence.

(1) An electronic judgment and sentence shall be prescribed by the Administrator for the Courts in conjunction with the Judicial Information System Committee (JISC).

(2) A non-electronic judgment and sentence form shall be prescribed by the Administrator for the Courts in conjunction with the Supreme Court Pattern Forms Committee.

(3) Notwithstanding any other statute or rule to the contrary, each judgment and sentence form, either electronic or hard copy, shall be preserved by the court in perpetuity.

RULE CrRLJ 7.3
JUDGMENT

A judgment of conviction shall set forth whether the defendant was represented by a lawyer or waived representation by a lawyer, the plea, the verdict or findings, and the adjudication and sentence. The court may order that its sentence include special conditions or requirements, including a specified schedule for the payment of a fine, restitution, or other costs, or the performance of community service. If the defendant is found not guilty or for any other reason is entitled to be discharged, judgment shall be entered accordingly. The judge or clerk shall enter the judgment on the record. The judgment and record of the sentencing proceedings of the courts of limited jurisdiction shall be preserved in perpetuity, either in an electronic or hard copy format. "Hard copy format" may include microfilm, microfiche, or a paper copy. At a minimum, the judgment and record of the sentencing proceedings shall include:

- (a) Defendant's name;
- (b) Defendant's ID numbers;
- (c) The charge, as well as any amendments to the original charge;
- (d) Arraignment date;
- (e) The plea, and the date entered;
- (f) Representation by or waiver of lawyer, as well as date of lawyer's appearance or waiver;
- (g) The parties present, including but not limited to the judge, attorneys, prosecutor, defense counsel, witnesses;
- (h) Verdict or findings, and the date entered;
- (i) Adjudication and sentence, and the date entered;
- (j) Conditions or requirements of the sentence, including but not limited to a specified schedule for the payment of a fine, restitution, or other costs, performance of community service, counseling or treatment;
- (k) The outcomes of any hearings held on the case, including but not limited to noncompliance hearings, reviews.

The judgment and record of the sentencing proceedings shall be prima facie evidence of a valid conviction in subsequent proceedings in courts of limited jurisdiction and in superior court.

[Amended effective June 4, 1997.]

RULE 7.4
ARREST OF JUDGMENT

- (a) Arrest of Judgment. Judgment may be arrested on the motion of the defendant for the following causes: (1) lack of jurisdiction of the person or offense; (2) the complaint or citation and notice does not charge a crime; or (3) insufficiency of the proof of a material element of the crime.
- (b) Time for Motion; Contents of Motion. A motion for arrest of judgment must be served and filed within 5 days after the verdict or decision. The motion for arrest of judgment shall identify the specific reasons in fact and law for each ground on which the motion is based.
- (c) New Charges After Arrest of Judgment. When judgment is arrested and there is reasonable ground to believe that the defendant can be convicted of an offense properly charged, the court may order the defendant to be recommitted or released to answer a new complaint or citation and notice. If judgment was arrested because there was no proof of a material element of the crime the defendant shall be discharged.
- (d) Rulings on Alternative Motions in Arrest of Judgment or for a New Trial. Whenever a motion in arrest of a judgment and, in the alternative, for a new trial is filed and submitted in any criminal cause tried before a jury, and the court enters an order granting the motion in arrest of

judgment, the court shall, at the same time, in the alternative, pass upon and decide in the same order the motion for a new trial. The ruling upon the motion for a new trial shall not become effective unless and until the order granting the motion in arrest of judgment is reversed, vacated, or set aside in the manner provided by law.

RULE 7.5
NEW TRIAL

(a) Grounds for New Trial. The court may, on its own motion or on motion of the defendant, grant a new trial for any one of the following causes when it affirmatively appears that a substantial right of the defendant was materially affected:

(1) Receipt by the jury of any evidence, paper, document or book not allowed by the court;

(2) Misconduct of the prosecution or jury;

(3) Newly discovered evidence material for the defendant, which the defendant could not have discovered with reasonable diligence and produced at the trial;

(4) Accident or surprise;

(5) Irregularity in the proceedings of the court, jury or prosecution, or any order of court, or abuse of discretion, by which the defendant was prevented from having a fair trial;

(6) Error of law occurring at the trial and objected to at the time by the defendant;

(7) That the verdict or decision is contrary to law and the evidence;

(8) That substantial justice has not been done. When the motion is based on matters outside the record, the facts shall be shown by affidavit.

(b) Time for Motion; Contents of Motion. A motion for new trial must be served and filed within 5 days after the verdict or decision. The motion for a new trial shall identify the specific reasons in fact and law for each ground on which the motion is based.

(c) Time for Affidavits. When a motion for a new trial is based upon affidavits they shall be served with the motion. The prosecuting authority has 5 days after such service within which to serve opposing affidavits. The court may extend the period for submitting affidavits to a time certain for good cause shown or upon stipulation.

(d) Statement of Reasons. In all cases where the court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record which cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and fact for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

RULE 7.6
PROBATION

(a) Probation. After conviction of an offense the defendant may be placed on probation as provided by law.

(b) Revocation or Modification of Probation. The court shall not revoke or modify probation except (1) after a hearing in which the defendant shall be present and apprised of the grounds on which such action is proposed, or

(2) upon stipulation of the parties. The defendant is entitled to be represented by a lawyer and may be released pursuant to rule 3.2 pending such hearing. A lawyer shall be appointed for a defendant financially unable to obtain one.

RULE 7.7

(RESERVED)

RULE 7.8
RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other

parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by the superior court and thereafter may be corrected by order of the superior court.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party from a final judgment, order, or proceeding for the following reasons:

(1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;

(2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 7.5;

(3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(4) The judgment is void; or

(5) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1) and (2) not more than 1 year after the judgment, order, or proceeding was entered or taken, and is further subject to RCW 10.73.090, .100, .130, and .140. A motion under this section does not affect the finality of the judgment or suspend its operation.

(c) Procedure on Vacation of Judgment.

(1) Motion. Application shall be made by motion stating the grounds upon which relief is asked, and supported by affidavits setting forth a concise statement of the facts or errors upon which the motion is based.

(2) Initial Consideration. The court may deny the motion without a hearing if the facts alleged in the affidavits do not establish grounds for relief. Otherwise, the court shall enter an order fixing a time and place for hearing and directing the adverse party to appear and show cause why the relief asked for should not be granted.

RULE 8.1 TIME

(a) Computation. Time shall be computed in accordance with CRLJ 6(a).

(b) Enlargement. When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion, (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or, (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect. The court may not extend the time for taking any actions under rules 7.4, 7.5, 7.8, and 9.1.

(c) For Motions--Affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than 5 days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; except as otherwise provided in rule 7.5, opposing affidavits may be served not later than 1 day before the hearing, unless the court permits them to be served at some other time.

RULE 8.2 MOTIONS

Rules 3.5 and 3.6 and CRLJ 7(b) shall govern motions in criminal cases.

CrRLJ 8.3 DISMISSAL

(a) On Motion of Prosecution. The court may, in its discretion, upon motion of the prosecuting authority setting forth the reasons therefor, dismiss a complaint or citation and notice.

(b) On Motion of Court. The court, in the furtherance of justice after notice and hearing, may dismiss any criminal prosecution due to arbitrary

action or governmental misconduct when there has been prejudice to the rights of the accused which materially affect the accused's right to a fair trial. The court shall set forth its reasons in a written order.

(c) On Motion of Defendant for Pretrial Dismissal. The defendant may, prior to trial, move to dismiss a criminal charge due to insufficient evidence establishing a prima facie case of the crime charged.

(1) The defendant's motion shall be in writing and supported by an affidavit or declaration alleging that there are no material disputed facts and setting out the agreed facts, or by a stipulation to facts by both parties. The stipulation, affidavit or declaration may attach and incorporate police reports, witness statements or other material to be considered by the court when deciding the motion to dismiss. Any attached reports shall be redacted if required under the relevant court rules and statutes.

(2) The prosecuting authority may submit affidavits or declarations in opposition to defendant's supporting affidavits or declarations. The affidavits or declarations may attach and incorporate police reports, witness statements or other material to be considered by the court when deciding defendant's motion to dismiss. Any attached reports shall be redacted if required under the relevant court rules and statutes.

(3) The court shall grant the motion if there are no material disputed facts and the undisputed facts do not establish a prima facie case of guilt. In determining defendant's motion, the court shall view all evidence in the light most favorable to the prosecuting authority and the court shall make all reasonable inferences in the light most favorable to the prosecuting authority. The court may not weigh conflicting statements and base its decision on the statement it finds the most credible. The court shall not dismiss a sentence enhancement or aggravating circumstance unless the underlying charge is subject to dismissal under this section. A decision denying a motion to dismiss under this rule is not subject to appeal under RALJ 2.2. A defendant may renew the motion to dismiss if the trial court subsequently rules that some or all of the prosecuting authority's evidence is inadmissible.

(4) If the defendant's motion to dismiss is granted, the court shall enter a written order setting forth the evidence relied upon and conclusions of law. The granting of defendant's motion to dismiss shall be without prejudice.

[Amended effective September 1, 1995; September 1, 2008.]

RULE 8.4
SERVICE, FILING, AND SIGNING OF PAPERS

(a) Service: When Required. Except as otherwise provided in these rules, every order required by its terms to be served, every pleading subsequent to the original complaint or citation and notice, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, application, designation of record on appeal, and similar paper shall be served upon each of the parties.

(b) Service: How Made.

(1) On Lawyer or Party. Whenever under these rules service is required or permitted to be made upon a party represented by a lawyer the service shall be made upon the lawyer unless service upon the party is ordered by the court. Service upon the lawyer or upon a party shall be made by delivering a copy to the person or by mailing it to the persons last known address. Delivery of a copy within this rule means: handing it to the lawyer or to the party; or leaving it at the persons office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the persons dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

(2) Service by Mail.

(i) How Made. CRLJ 5(b) (2) (i) shall govern service by mail.

(ii) Proof of Service by Mail. Proof of service by mail may be by affidavit or certification, under RCW 9A.72.085 or any law amendatory thereof, of the person who mailed the papers, or by written acknowledgment of service.

(c) Filing With Court. The complaint or citation and notice shall be filed as in rule 2.1. All other pleadings required to be served upon a party shall be filed with the court pursuant to CRLJ 5(e).

(d) Bar Association Membership Number. All pleadings, motions, and legal memoranda signed by an attorney shall include the attorneys Washington State Bar Association membership number in the signature block.

(e) Filing by Facsimile. (Reserved. See GR 17--Facsimile Transmission.)

RULE 8.5
(RESERVED)

RULE 8.6
OBJECTIONS AND EXCEPTIONS

CRLJ 46 shall govern objections and exceptions to rulings and orders in criminal cases.

RULE 8.7
(RESERVED)

RULE 8.8
DISCHARGE

Upon acquittal, or whenever the court shall direct any criminal prosecution to be dismissed, the defendant shall be released from custody or conditions of release on such charge and any bail shall be exonerated.

RULE 8.9
DISQUALIFICATION OF JUDGE

(a) Disqualification. In any case pending in any court of limited jurisdiction, unless otherwise provided by law, the judge thereof shall be deemed disqualified to hear and try the case when the judge is in any way interested or prejudiced. The judge may enter an order of disqualification.

(b) Affidavit of Prejudice. The judge shall also enter an order of disqualification under the provisions of this rule if, before the judge makes a discretionary ruling and before the trial is commenced, a party files an affidavit alleging that the party cannot have a fair and impartial trial by reason of the interest or prejudice of the judge or for other ground provided by law. Only one such affidavit shall be filed on behalf of the same party in the case and the affidavit shall be made as to only one of the judges of the court. All rights to an affidavit of prejudice will be considered waived when filed more than 10 days after the defendant's plea is entered or arraignment is waived, unless the affidavit alleges a particular incident, conversation or utterance by the judge, which was not known to the party within the 10-day period. In multiple judge courts, or when a pro tempore or visiting judge is designated as the judge, the 10-day period shall commence on the date that the party has actual notice of assignment or reassignment to a designated judge.

(c) Transfer. Whenever a judge is disqualified, the judge shall immediately make an order transferring and removing the case to another judge authorized by law to hear the case.

RULE 8.10
CLOSURE OF PROCEEDINGS AND SEALING
OF RECORDS

(a) Proceedings and Records To Be Open. Court proceedings shall be open to the public, and court records denominated public records under ARLJ 9 shall be available for public inspection, unless the court orders closure or sealing, or other restrictions, pursuant to this rule.

(b) Grounds for Closure or Sealing Before Charges Filed. Before charges are filed, the court may order proceedings closed or records sealed only upon a showing that

(1) There is a likelihood of jeopardy to an accused's right to a fair trial; or

(2) There exists a substantial threat to effective law enforcement; or

(3) There exists a substantial threat to the privacy or safety of an individual; or

(4) For other good cause shown; and that there are no less restrictive means available to protect the interest threatened.

(c) Grounds for Closure or Sealing After Charges Filed. After charges are filed, the court may order proceedings closed or records sealed only upon a showing that

(1) There is a substantial probability of jeopardy to an accused's right to a fair trial; or

(2) There exists a serious and imminent threat to effective law enforcement; or

(3) There exists a serious and imminent threat to the privacy or safety of an individual; or

(4) For other good cause shown; and that there are no less restrictive means available to protect the interest threatened.

(d) Determination. Upon motion and supporting affidavit, the court shall determine whether a proceeding should be closed or records sealed.

(1) The proponent shall state the grounds for the motion with reasonable specificity, consistent with the protection of the interest threatened. Any person present when the motion is made shall be given an opportunity to object to the proposed restriction.

(2) If the motion is made upon grounds set forth in (b)(1) or (c)(1), any person objecting to closure or sealing shall have the burden of suggesting effective alternatives. Otherwise, the proponent shall have the burden of showing that restrictions are necessary.

(e) Order of Closure or Sealing. Upon determining that a proceeding should be closed or records sealed, the court shall promptly thereafter prepare

(1) A transcript of any in camera proceedings; and

(2) An order of closure or sealing; and

(3) Written findings of fact and conclusions of law setting forth with specificity the courts consideration of the issues, including alternative methods suggested. If the order involves the sealing of records, it shall apply for a specific time period and require the proponent to come before the court at a time specified in the order to justify continued sealing.

(f) Other Order. If the court determines that there exists an alternative less restrictive than closure or sealing which will protect the threatened interest, it may issue an appropriate order and shall thereafter prepare the documents specified in section (e).

(g) Exclusion of Witness. This rule shall not apply to circumstances governed by ER 615.

(h) Discovery. This rule shall not apply to discovery procedures governed by rule 4.7.

(i) Disclosure Procedure. Reserved. See ARLJ 9.

RULE 8.11 DISCLOSURE OF RECORDS

Disclosure of records of courts of limited jurisdiction shall be governed by ARLJ 9 and by RCW 10.97.

CrRLJ 8.12 REPORTING TRAFFIC OFFENSES

The court shall upon entry of bail forfeiture or entry of judgment of guilty of a criminal traffic offense forward to the Department of Licensing a copy of the complaint or citation and notice to appear and an abstract of the courts order.

[Adopted effective September 1, 1987; November 21, 2006.]

RULE 9.1 PERFECTING OF APPEAL

(a) Scope of Rule. This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of

Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

(b) Venue. Appeals shall be to the superior court of the county in which the court of limited jurisdiction is located. The appeal from a district court located in a joint district court district shall be made to the superior court of the county where the offense was alleged to have been committed.

(c) Notice of Appeal. The appeal shall be taken by filing in the court of limited jurisdiction that entered the decision a written notice of appeal containing the address of the appellant and the appellant's lawyer within 30 days after entry of judgment. If a motion for a new trial or for arrest of judgment has been timely made, the notice of appeal shall be filed within 30 days after entry of the order denying the motion. The clerk of the court of limited jurisdiction shall immediately upon the filing of a notice of appeal file a copy of the notice with the superior court. Filing the notice of appeal is the only jurisdictional requirement for an appeal. A party filing a notice of appeal shall also, within the same 30 days, serve a copy of the notice of appeal upon the prosecuting authority. An acknowledgment or affidavit of service shall be filed in the court of limited jurisdiction.

(d) The Record. Within 14 days after the filing of the notice of appeal, the clerk of the court of limited jurisdiction shall file with the clerk of the superior court in which the appeal is pending a transcript duly certified by the court of limited jurisdiction, furnished without charge, containing a copy of all written pleadings and docket entries and including exhibits introduced into evidence in the trial before the court of limited jurisdiction. A cash bail or bail bond filed in the lower court shall at the same time be transferred to the superior court, there to be held pending disposition of the appeal. Evidence not offered in trial in the superior court shall be returned to the court of limited jurisdiction.

(e) Notice of Filing. The court of limited jurisdiction shall give prompt notice of the filing or mailing of the transcript to the respondent and appellant, giving such particulars as date of filing or mailing and superior court file number if known. Where the court of limited jurisdiction is not located at the county courthouse, such filing may be made by certified mail, in which case the court of limited jurisdiction shall advise appellant and respondent of the date of mailing.

(f) Noting for Trial. Within 21 days after the transcript is filed, the superior court shall set a trial date and notify the parties of the date.

(Amended September 1, 1996)

RULE 9.2 IMPOSITION OF SENTENCE PENDING APPEAL

(a) Scope of Rule. This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

(b) Stay of Sentence. All sentences shall be stayed if an appeal is taken and the defendant posts cash bail or a bond to the state which shall be deposited with the clerk of the court of limited jurisdiction, in such reasonable sum with sureties as the lower court judge may require, upon the following conditions: that the defendant will diligently prosecute the appeal, and will appear at the court appealed to and comply with any sentence of the superior court, and will, if the appeal is dismissed for any reason, comply with the sentence of the lower court.

(c) Imposition of Sentence. If the appellant fails to provide security, sentence imposed shall be executed.

RULE 9.3 PROSECUTION OF APPEAL

(a) Scope of Rule. This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

(b) Failure To Certify Transcript. If the lower court fails, neglects or refuses to make and certify the transcript within the time allowed, the appellant may make application to the superior court not later than 21 days after the filing of the notice of appeal and the superior court shall issue an order to make and certify the transcript.

(c) Dismissal for Want of Prosecution. Upon dismissal of the appeal for failure of appellant to proceed diligently with the appeal as required, or for any other cause, the judgment of the lower court shall be enforced by the judge thereof. If, at the time of such dismissal, cash deposit or appeal bond as required has been furnished and is in the custody of the superior court, the same shall be returned to the lower court. The lower court shall have power to forfeit the cash bail or appeal bond and issue

execution thereon for breach of any condition under which it is furnished.

(d) Dismissal on Clerks Motion. In all appeals from courts of limited jurisdiction wherein there has been no action of record during the 90 days just past, the clerk of the superior court shall mail notice to the appellant and the lawyers at the addresses contained in the notice of appeal that such appeal will be dismissed by the court for want of prosecution unless, within 30 days following such mailing, an application in writing is made to the court and good cause shown why it should be continued as a pending case. If the appeal is dismissed, the clerk of the court will proceed as in section (c).
